PROCEEDINGS OF COUNCIL OF GOVERNOR OF FORT ST. GEORGE

VOL.-XXX 1902

MADRAS

1903

PROCEEDINGS

OF THE

Council of the Governor of Fort St. George

ASSEMBLED

FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS

FOR THE YEAR

1902,

WITH INDEX.

VOL. XXX.

Published by the Authority of the Council.

MADRAS:
PUBLISHED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

1903.

MADRAS:

PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Proceedings of a Meeting of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament, 24 and 25 Vic., cap. 67, and 55 and 56 Vic., cap. 14.

The Council met at the Council Chamber, Fort St. George, at noon on Monday the 17th day of February 1902.

PRESENT.

His Excellency Baron AMPTHILL, G.C.I.E., Governor of Madras—*Presiding.*
The Hon'ble Mr. H. M. WINTERBOTHAM, C.S.I.
The Hon'ble Mr. J. THOMSON.
The Hon'ble Mr. G. L. ACWORTH.
The Hon'ble Mr. J. E. P. WALLIS, Advocate-General.
The Hon'ble the MAHARAJA OF BOBBILI, K.C.I.E.
The Hon'ble Mr. G. S. FORBES.
The Hon'ble Lieut.-Colonel Sir GEORGE MOORE, *Kt.*, C.I.E.
The Hon'ble Mr. H. BRADLEY.
The Hon'ble Mr. A. J. YORKE.
The Hon'ble Mr. A. W. B. HIGGENS.
The Hon'ble Mr. EARDLEY NORTON.
The Hon'ble Mr. H. A. SIM, C.I.E.
The Hon'ble Mr. J. N. ATKINSON.
The Hon'ble S. SRINIVASARAGHAVA AIYANGAR Avargal, C.I.E., Diwan Bahadur.
The Hon'ble Mr. M. HAMMICK, C.I.E.
The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal, Rao Bahadur.
The Hon'ble P. RATNASABHAPATI PILLAI Avargal.
The Hon'ble K. PERRAJU PANTULU GARU.
The Hon'ble G. SRINIVASA RAO Avargal.
The Hon'ble Mr. G. H. STUART.
The Hon'ble NAWAB SAIYID MUHAMMAD SAHIB Bahadur.

HER LATE IMPERIAL MAJESTY THE EMPRESS FREDERICK OF GERMANY.

12 noon.

The Secretary read the following reply of the Right Honourable the Secretary of State for India to the resolution of condolence adopted at the meeting of the Council held on the 27th August last:—

From the Right Honourable the Secretary of State for India, dated India Office, London, 13th December 1901, No. 31–Political.

"MY LORD,—I have to acknowledge receipt of your letter of the 28th August last forwarding a copy of a resolution which was adopted at a meeting of the Madras Legislative Council held on the previous day, tendering the respectful sympathy of the Council to His Majesty the King and to His Imperial Majesty the German Emperor, on the occasion of the death of Her late Imperial Majesty the Empress Frederick of Germany.

"2. I have submitted the resolution to His Majesty the King, who has been graciously pleased to accept it; and I request that you will convey His Majesty's acknowledgments to the Legislative Council."

ADDITIONAL MEMBERS.

The Secretary reported that the following gentlemen took their seats as additional members:—

The Hon'ble Mr. EARDLEY NORTON.
" " Mr. J. N. ATKINSON.
" " Mr. M. HAMMICK, C.I.E.
" " NAWAB SAIYID MUHAMMAD SAHIB Bahadur.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—

I. (*a*) Whether there is any scheme in contemplation to form a special detective branch of the police?

(*b*) If so, whether it is proposed to form only one party for the whole presidency, or whether a party will be organized for each police division in each district?

If the former be in contemplation, whether Government will be pleased to take into consideration the desirability of organizing separate detective parties for each police division in the districts?

The Hon'ble Mr. Forbes:—

I. The Honourable Member is referred to the answer given to a similar question at the meeting of the Legislative Council held on the 27th August 1901. The matter is still under consideration and Government is unable at present to make any announcement regarding the details of the scheme.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—

II. Will Government be pleased to furnish information on the following points in connection with the land revenue settlement in Malabar:—

(1) Names of the taluqs in which the janmam registration has been completed?

(2) Names of the taluqs in which the new rates of settlement have been introduced and the dates of such introduction?

(3) The amounts of the old assessment and the new assessment in such taluqs and the percentages of increase?

(4) Whether in any taluqs the new rates have been introduced before the janmam registration has been effected?

(5) Probable time when the janmam registration will be completed in the other taluqs and the new rates introduced?

(6) The amount of the existing assessment and the expected total increase for the whole district?

The Hon'ble Mr. Hammick:—

II. (1) The registration of proprietors is practically completed in the taluqs of Palghat, Calicut, Kurumbranát and Walavanad.

(2) The settlement has been introduced with effect from fasli 1310 (1900–1901) in 138 desams of Palghat taluq and 94 desams of Calicut taluq, and with effect from fasli 1311 (1901–1902) in 94 desams of Calicut taluq, 341 desams of Kurumbranát taluq and 316 desams of Walavanad taluq.

(3)

Taluqs.	Old assessment.	Settlement assessment.	Percentage of enhancement.
	RS.	RS.	
Palghat	2,74,575	5,09,435	85
Calicut	1,35,702	2,11,351	55
Kurumbranát	2,32,394	4,26,554	83
Walavanad	2,36,801	4,86,900	105

(4) The answer is in the negative. Both operations will hereafter proceed as far as possible simultaneously.

(5) Janmam registration will probably be completed and the settlement introduced in Ponnáni and Kóttayam taluqs in fasli 1312 (1902–1903); in Ernad taluq in fasli 1313 (1903–1904), and in Chirakkal taluq in fasli 1314 (1904–1905).

(6) The figures for four taluqs have already been stated. In Ponnáni and Kóttayam taluqs the present assessment is Rs. 4,43,824 and the settlement assessment is estimated at Rs. 8,03,475. No reliable estimate can as yet be framed for Ernad and Chirakkal taluqs.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

III. (*a*) Whether any and what measures are in contemplation for the equalization of the revenue divisional charges and whether all existing distinctions of sub-collectors', head assistants', assistants' and deputy collectors' divisions are to be abolished?

(*b*) Whether a division in charge of a sub-collector hitherto may be held by a deputy collector and *vice versâ?*

(*c*) Whether it is in contemplation to continue the scales of establishments now existing in the sub-collectors', head assistants', assistants' and deputy collectors' offices, and, if so, whether Government will be pleased to take into consideration the desirability of equalizing the same?

The Hon'ble Mr. Hammick :—

III. The question of equalizing divisional charges is at present under the consideration of the Government.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

IV. Whether it is proposed to extend the Steam Boilers Act to the mufassal in the case of private owners of steam engines, and whether any and what fees are proposed to be levied from them?

The Hon'ble Mr. Forbes :—

IV. The reply to the first part of the question is in the affirmative. The fees to be levied are those contained in the schedule to the Act.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

V. Whether, in order to avoid inconvenience and delays, Government will be pleased to invest the sub-registrars of assurances under section 36 of the Indian Registration Act with the power of summoning parties and witnesses whose presence may be necessary for registration of documents?

The Hon'ble Mr. Forbes :—

V. Under the rules now in force a registering officer, in order to secure the attendance of a party or witness in connection with the registration of a document, has merely to request the magistrate, within whose jurisdiction the person to be summoned resides, to issue a summons for such person's attendance at the registration office. Sub-registrars, if invested with the power to summon witnesses, would have at their disposal no establishment available for serving process. The Honourable Member's proposal would apparently not afford greater advantages in the direction indicated in the question than the existing arrangement regarding which the Government is not aware that any complaint has been made.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

VI. (*a*) Will Government be pleased to state why and under what circumstances the recent election of Rao Bahadur A. Sabhapati Mudaliyar Avargal as chairman of the municipal council of Bellary was vetoed by it?

(*b*) Is it a fact that this gentleman had been a member of the municipal council for twenty years during nine years of which he was its chairman?

(*c*) Whether Government received any memorials of protest on the subject from the people of Bellary and whether any and what reply was made to the same?

The Hon'ble Mr. Forbes :—

VI. (*a*) The election of M.R.Ry. Rao Bahadur A. Sabhapati Mudaliyar did not meet with the approval of the Governor in Council. This is required under section 14 (1) (*b*) of Act IV of 1884, as amended by Act III of 1897. It is neither expedient nor necessary to make public the reasons for non-approval.

(*b*) He was appointed a municipal councillor in 1880, but has not sat continuously on the council. He occupied the position of chairman for less than five years.

(c) Government received a memorial from certain rate-payers of Bellary requesting a reconsideration of the orders but saw no sufficient reasons for reopening the matter.

The Hon'ble G. SRINIVASA RAO Avargal :—

VII. (a) What is the cause of the decrease in the number of primary schools shown in the report of the Director of Public Instruction for 1900–1901?

(b) Have results and fixed grants been paid in full and, if not, will Government provide the funds for fully paying them in future?

The Hon'ble Mr. Forbes :—

VII. (a) The fall in the number of primary schools was attributed by the Director partly to the prevalence of distress and epidemics and partly to the inadequate payment of results grants.

(b) Results grants have not been paid in full. The fixed grants paid were calculated on similar inadequate payments in previous years. The question of providing funds for fully paying results grants and for increasing the fixed grants is under consideration.

The Hon'ble K. PERRAJU PANTULU Garu :—

VIII. (a) Will Government be pleased to state how many ryotwari pattadars in this presidency are now involved in debt?

(b) If such information is not available, will Government be pleased to call for it and lay the same on the table?

The Hon'ble Mr. Hammick :—

VIII. (a) The Government is unable to give the information required.

(b) The Honourable Member can hardly have considered the magnitude of the inquiry on which he wishes Government to embark. The answer must be in the negative.

The Hon'ble K. PERRAJU PANTULU Garu :—

IX. Will Government be pleased to state how much land under ryotwari settlement in this presidency passed into the possession of money-lending and other classes during the last three years?

The Hon'ble Mr. Hammick :—

IX. The information the Honourable Member wants is not available: but he will perhaps be interested to hear that the land revenue reports commencing with that for the revenue year 1900–1901 will contain a statement showing the distribution of arable land among the principal classes of the population. The Honourable Member is no doubt aware that in this presidency the money-lenders are for the most part ryots.

The Hon'ble K. PERRAJU PANTULU Garu :—

X. (a) Will Government be pleased to state how many cultivating tenants in the permanently-settled estates of this presidency are now involved in debt?

(b) If such information is not available, will Government be pleased to institute an inquiry and publish the result of the same?

The Hon'ble Mr. Hammick :—

X. (a) The information is not available.

(b) The Government sees no sufficient reason for instituting so vast an inquiry.

The Hon'ble K. PERRAJU PANTULU Garu :—

XI. Will Government be pleased to state what is the present number of ryotwari holdings over five acres and up to ten acres in this presidency?

The Hon'ble Mr. Hammick :—

XI. The information is not available.

The Hon'ble K. PERRAJU PANTULU Garu :—

XII. (a) Is it a fact that the crop outturns of the staple produce this year are, in quantity, far below normal both in the deltas and upland in the Northern Circars?

(b) If so, is Government able to assign any and what cause therefor?

(c) Will Government be pleased to give the ryots any and what concessions in the collection of the arrears of revenue?

The Hon'ble Mr. Hammick :—

XII. (a) *and* (b) The answer to (a) is in the negative.

(c) The Government is of opinion that no concessions are required.

The Hon'ble K. Perraju Pantulu Garu:—

XIII. (a) Is Government aware that in several parts of the Agency tracts in the Northern Circars there prevails what is called *Podu cultivation* for which the hill tribes set fire to the jungle growths with a view to throw seed on the ash-covered land and harvest what they can?

(b) Does not that sort of cultivation lead to the destruction of forest wealth and, if so, is Government going to take any steps to prevent it and bring those people into habits of harmless and useful husbandry?

The Hon'ble Mr. Hammick :—

XIII. (a) Yes.

(b) The question of how best to deal with the practice of podu cultivation is one that has long engaged the attention of the Government. Rules, which the Honourable Member will find in the Madras Forest Manual, have been framed under the Forest Act with the object of enabling the Collector to control and limit such cultivation, and of recent years attempts have been made, not without success, to repair the waste of the original forests by inducing the hill tribes to put in seedlings of teak and other valuable species in the areas they clear for cultivation.

The Hon'ble K. Perraju Pantulu Garu:—

XIV. Will Government be pleased to state how many persons emigrated during the last three years from Vizagapatam and Gódávari districts to South Africa, Burma, Assam and Mauritius under the Emigration Acts or otherwise in order to there find employment?

The Hon'ble Mr. Forbes :—

XIV. The Honourable Member is referred to the emigration reports for the years 1898, 1899, 1900 in which he will find the statistics regarding South Africa, Burma and Mauritius he asks for. These reports are embodied in G.Os., No. 694, Public, dated 21st June 1899; No. 929, Public, dated 10th September 1900; and No. 609, Public, dated 13th June 1901, copies of which will be placed on the Editors' table.

The Government has no information regarding the number of persons who went from the districts named to Assam.

The Hon'ble K. Perraju Pantulu Garu:—

XV. Will Government be pleased to allot areas of culturable unoccupied land in convenient localities and publish facilities for the landless labourers in the congested rural parts to settle there and carry on pursuits of agriculture?

The Hon'ble Mr. Hammick :—

XV. The Government is not aware of any considerable areas of culturable unoccupied land suitable for colonisation, nor is there any reason to suppose that any rural parts of this presidency are overpopulated.

The Hon'ble K. Perraju Pantulu Garu:—

XVI. (a) Out of the lands classed as "forest lands" will Government be pleased to state what extent there is which is merely covered with thin scrub and grass where no plantation operations are carried on?

(b) Will Government be pleased to direct the transfer of such forest areas to the Revenue department for cultivation?

The Hon'ble Mr. Hammick :—

XVI. (*a*) The information asked for is not available.

(*b*) Land is not constituted reserved forest without careful consideration of the requirements of neighbouring villages in the matter of extension of cultivation and also of the capacity of the land to benefit by the ordinary methods of forest conservancy. In particular cases where the claims of cultivation require it, reserved land may be disafforested. A wholesale abandonment of denuded areas which have been reserved under the Act and are at present covered only with thin scrub would prevent that renewal of forest growth which it is the main object of the Forest Act to secure.

The Hon'ble K. PERRAJU PANTULU Garu :—

XVII. (*a*) Is this Government aware of the recent resolution passed by the Government of Bombay on the report of Mr. G. A. Gammie, the officer in charge of the Botanical survey, Bombay presidency, on the experimental culture of sisal hemp at Nandgaon?

(*b*) Will this Government be pleased to start an experimental culture of the sisal hemp and sabai grass in suitable localities and publish the results for the benefit of the cultivating classes of this presidency?

The Hon'ble Mr. Hammick :—

XVII. (*a*) The Government has not seen the report or resolution referred to.

(*b*) The Honourable Member will see from the published annual reports of the department of Land Records and Agriculture that experiments in the cultivation of sisal hemp have been in progress since 1898.

The Hon'ble K. PERRAJU PANTULU Garu :—

XVIII. (*a*) Will Government be pleased to state what effect has been given to its decision for the establishment of experimental farms in the presidency?

(*b*) Has Government defined the scope of these experimental farms?

(*c*) Having regard to the opinion recently expressed by Veterinary-Lieutenant Holmes, will Government be pleased to include the improvement of the breed of cattle in the experimental programme?

The Hon'ble Mr. Hammick :—

XVIII. (*a*) Land has been acquired for two farms—one at Bellary and the other at Koilpatti. Shedding has been put up, cattle purchased, labour engaged, and the land is being laid out in a manner suitable for carrying on agricultural investigations and experiments.

(*b*) Yes; the Government is practically following the principles laid down in Dr. Voelcker's work "Improvement of Indian agriculture" for the management of experimental farms.

(*c*) The breeding of cattle on a small scale may possibly become part of the programme in course of time if the farms succeed and expand.

The Hon'ble K. PERRAJU PANTULU Garu :—

XIX. In view to conserve the cattle wealth of the agricultural community and improve the cattle-breeding, will Government be pleased to start cattle farms and inaugurate cattle shows in each district or groups of districts in the presidency?

The Hon'ble Mr. Hammick :—

XIX. The Honourable Member is referred to the report of the agricultural committee of 1889 and to the Government order thereupon for information as to the circumstances under which the cattle shows which had been held in various places for a series of years were found not to be successful.

Government is not at present prepared to undertake the breeding of cattle and doubts whether the cattle wealth of the agricultural community can be so developed. Where local circumstances permit, most excellent cattle are bred by the ryots and are widely distributed. Where there is scarcity of pasture and fodder, large and powerful cattle are out of place.

The Hon'ble K. Perraju Pantulu Garu:—

XX. (*a*) Is Government aware how many date-palms grow wild in this presidency and how many of them are tapped for the manufacture of liquor?

(*b*) Is Government aware that in Bengal the date-palm is used as sugar-producer in several districts and there is a growing industry of manufacturing refined sugar in large quantities out of date palm-juice or date-rab, in so much that about 60,000 acres are now under date cultivation?

(*c*) In view to the opening of a field of profitable labour for the agriculturists and labouring classes of this presidency, will Government be pleased to experiment the manufacture of sugar out of date juice and take steps to introduce such industry into the districts of this presidency?

The Hon'ble Mr. Hammick:—

XX. (*a*) The Government has no information as to the number of date trees growing wild in this presidency. 787,022 date trees were tapped for the manufacture of liquor during 1900–1901. The manufacture of jaggery from date toddy is understood and is practised to a small extent in all the districts where the tree is plentiful.

(*b*) The Government has no detailed information concerning Bengal, but believes the Honourable Member is correct in thinking that date toddy is there much more largely used for the manufacture of jaggery than is the case in Madras.

(*c*) It does not appear to the Government that there is any need for experiment in the direction suggested. The feasibility of manufacturing jaggery by boiling down the juice of the date palm is widely known and the tapping of the tree is in common practice.

From the fact that date jaggery is little used the inference is that it cannot compete with the jaggery so largely produced from sugar-cane and the palmyrah.

The Hon'ble K. Perraju Pantulu Garu:—

XXI. (*a*) Will Government be pleased to state what quantity of mica was shipped from Madras during the last three years?

(*b*) Has Government any information as to the growth of mica industry in Bengal, and what is known of the probability of large deposits of mica being found in this presidency?

(*c*) Will Government be pleased to seek expert opinion as to the existence and quality of the Madras mica similar to that which Professor Dunstan, Scientific Director of the Imperial Institute, submitted on Jaipur mica and publish the same for general information?

The Hon'ble Mr. Hammick:—

XXI. (*a*) The Honourable Member is referred to the statistics published at page 74 of the annual volume of sea-borne trade and navigation of the Madras presidency for 1900–1901.

(*b*) The Honourable Member will see from the statistics appended to the report on the inspection of mines in India for 1900 published by the Government of India that the output of mica in this presidency was somewhat greater than that in Bengal.

(*c*) The answer is in the negative; for, as far as the Government is aware, the existence and quality of Madras mica are well known. The Government understands that a memoir on the subject of mica in India will shortly be issued by the Imperial Geological department.

The Hon'ble K. PERRAJU PANTULU Garu :—

XXII. In view to the development of the indigenous art industries of this presidency, will Government be pleased to make provision in the budget for the establishment of schools of arts with sale-rooms and show-rooms for the exhibition of the various art industries that are still extant in the rural parts?

The Hon'ble Mr. Forbes :—

XXII. The question of developing the indigenous industries of the presidency is now under consideration by the Government of India whose recommendations this Government is awaiting.

The Hon'ble K. PERRAJU PANTULU Garu :—

XXIII. Will Government be pleased to inaugurate periodical exhibitions of local manufactures in every Collectorate in the presidency and give the village artizans an opportunity of exhibiting their wares?

The Hon'ble Mr. Hammick :—

XXIII. The experiment has been tried in the past. Such exhibitions cost a good deal and have been found barren of result. The Government, however, is prepared to consider the advisability of repeating the experiment at any time or place where a favourable opportunity may present itself.

The Hon'ble K. PERRAJU PANTULU Garu :—

XXIV. In view to the development of the manufacturing capacity of this presidency, will Government be pleased to consider and formulate a scheme for giving advances to the artizans as in the case of the agriculturists?

The Hon'ble Mr. Hammick :—

XXIV. The Government is not prepared to attempt the preparation of any scheme of the nature indicated.

The Hon'ble K. PERRAJU PANTULU Garu :—

XXV. (*a*) Is Government aware that the Bengal Government on the suggestion of Mr. E. B. Havell, Principal of the Calcutta School of Arts, are taking steps to make the use of the fly-shuttle known among the weavers throughout that province and it is now in use in eight districts out of the forty-eight?

(*b*) Will Government be pleased to take similar steps as regards this presidency and help the mechanical improvement of the hand-looms which are now in use among the weavers?

The Hon'ble Mr. Hammick :—

XXV. (*a*) The Government has no information on the subject. The fly-shuttle is, the Government believes, already in use by some weavers in the Madras town and elsewhere.

(*b*) Experiments are in progress at the School of Arts with the object of ascertaining what improvements are practicable in native hand-looms.

The Hon'ble K. PERRAJU PANTULU Garu :—

XXVI. (*a*) Is Government aware of the report submitted last year on technical education in Bombay by Dr. Arthur W. Thomson of the Poona College of Science and its having been approved by the Director of Public Instruction and Government of Bombay?

(*b*) Will Government be pleased to take steps for the improvement of the primary and secondary education in the village schools of this presidency on the lines suggested in Dr. Thomson's report?

(*c*) Will Government be pleased to sanction as a tentative measure the introduction of the subjects of drawing, clay-modelling and wood-work in the important village schools?

The Hon'ble Mr. Forbes :—

XXVI. (*a*) Government is aware of Dr. Thomson's report.

(*b*) *and* (*c*) The question of improving primary education in this presidency is engaging the attention of Government. As in Bombay, it is one mainly of the provision of funds, and until funds are forthcoming it would be premature to declare what improvements will be practicable.

The Hon'ble K. PERRAJU PANTULU Garu :—

XXVII. (a) Is Government aware of the resolution of the Bombay Government on the subject of providing practical training in sanitary science for students who have passed through the medical and engineering colleges of that presidency ?

(b) Having regard to the scarcity of trained sanitary surveyors for employment by the local boards and district municipalities of this presidency, will Government be pleased to take any and what action in this respect ?

The Hon'ble Mr. Forbes :—

XXVII. The Government has not seen the resolution of the Bombay Government. Sanitary inspectors in this presidency receive instruction in hygiene. Government is prepared to consider any proposals the Honourable Member desires to make.

The Hon'ble K. PERRAJU PANTULU Garu :—

XXVIII. (a) Will Government be pleased to state how many bench courts there are in this presidency exercising second-class powers ?

(b) Having regard to the large number of bench courts exercising only third-class powers for a long time, will Government be pleased to invest them or the most efficient of them with second-class powers ?

The Hon'ble Mr. Forbes :—

XXVIII. There is only one bench court, namely, that at Ootacamund, which has been invested by Government with second-class powers. The other benches are however usually presided over by a sub-magistrate, and except in cases where the sub-magistrate exercises only third-class powers, his presence on the bench gives the court the powers of a second-class magistrate under clause 2, section 15 of the Criminal Procedure Code. Any bench may thus from time to time exercise the powers of a second-class magistrate, and Government does not consider that any general extension of the powers of bench courts is at present necessary.

The Hon'ble K. PERRAJU PANTULU Garu :—

XXIX. (a) Is Government aware of the practice of referring to the opinion of the municipal councils by the revenue officers, applications for the location of liquor-shops within their limits ?

(b) Is it a fact that the revenue officers concerned sanction the location of liquor-shops near markets and other conspicuous places of public resort notwithstanding the protests of the municipal councils ?

(c) In view to minimize the evil of drinking and confining it to obscure places as far as possible, will Government be pleased to direct the revenue authorities concerned not to sanction liquor-shops in places objected to by the municipalities ?

The Hon'ble Mr. Hammick :—

XXIX. (a) Yes.

(b) If the fact is so, there will be reasons for their action which the councils are free to bring to the notice of Government.

(c) Government would not be justified in issuing orders as suggested.

The Hon'ble Mr. EARDLEY NORTON :—

XXX. (a) Did the Advocate-General apply for, and receive, the permission of Government to appear for the defence in the libel prosecution before the Chief Presidency Magistrate of the "Madras Municipality" *versus* "The Madras Mail"?

(b) Are there any and what rules or orders regulating the appearance of the Advocate-General in criminal cases, whether of an original, appellate or revisional nature ?

(c) If there are not, will the Government, in recollection as well of the powers of the Advocate-General to enter a *nolle prosequi* as of his responsibilities as the chief legal adviser of the Government, take steps to define and limit the right of the Advocate-General to appear whether in original, appellate or revisional cases, against the Crown ?

The Hon'ble Mr. Forbes :—

XXX. (*a*) The reply to this part of the question is in the negative.

(*b*) *and* (*c*) There is a rule that the Advocate-General is not to appear against the Government in any court without special permission.

Clause (*c*) consequently requires no answer.

The Hon'ble Mr. EARDLEY NORTON :—

XXXI. Is the Government aware (*a*) that no ladies' carriage is provided as a matter of course on trains running on the South Indian railways?

(*b*) That great inconvenience is thereby caused to gentlemen who frequently find one lady in occupation of each first-class compartment?

(*c*) And will the Government take steps to remedy this inconvenience?

The Hon'ble Mr. Forbes :—

XXXI. (*a*) The subject of reserved accommodation for ladies on the South Indian railway is dealt with in rule 101 as below :—

"Rule 101. *Reserved compartments for ladies.*—At terminal or other stations from which trains start, a compartment will be reserved for ladies travelling alone in first or second class carriages on six hours' notice. At other stations twenty-four hours' notice must be given. Such compartments will only be reserved for long journeys involving night travelling between 18 o'clock and 6 o'clock and during other parts of the twenty-four hours, should the ladies hold tickets for distances not less than fifty miles. Boys, under twelve years of age, may travel in a ladies' compartment, if with relatives or friends."

The objection to invariably reserving a compartment for ladies is that it would generally run empty and the practice would thus be expensive and wasteful.

(*b*) The practice of invariably reserving a compartment for ladies would not meet the inconvenience complained of. A railway company has no power to compel ladies to occupy a compartment reserved for them.

The difficulty could only be met by reserving a compartment for gentlemen, but there has been no public demand for an innovation of this kind.

(*c*) Under the circumstances it does not appear desirable that Government should take steps to remedy this particular inconvenience.

The Hon'ble Mr. EARDLEY NORTON :—

XXXII. Will the Government place on the table a balance sheet and a profit and loss account of the Aluminium department of the School of Arts made up on a purely commercial basis?

The Hon'ble Mr. Forbes :—

XXXII. Orders have been given for the preparation of an account of the aluminium work in the School of Arts on a purely commercial basis which will be published in due course.

PETITIONS, ETC.

The Secretary reported that the following papers had been communicated to the Select Committee on the Madras Court of Wards Bill :—

12-20 P.M.

(1) From M.R.Ry. V. R. Ponnuswami Aiyangar Avargal, dated 25th November 1901.

(2) Petition from M.R.Ry. Lodd Krishna Das Balamukunda Das Garu, dated 25th November 1901.

(3) Petition from Messrs. Parry & Co., Arbuthnot & Co., the Bank of Madras, and other Bankers and Merchants of Madras—undated; received 3rd December 1901.

(4) From M.R.Ry. Lodd Krishna Das Balamukunda Das Garu, dated 5th December 1901.

(5) Petition from Raja Venugopala Bahadur and others, dated 6th December 1901.

(6) From the Madras Trades' Association, dated 6th December 1901.

(7) Petition from M.R.Ry. G. Venkataratnam Pantulu Garu and others of Cocanada, dated 7th December 1901.

(8) Petition from M.R.Ry. E. Saravana Pillai Avargal of Karvetnagar, dated 12th December 1901.

He also reported the receipt of the following papers on the subject of the Court of Wards Bill:—

(i) Petition from M.R.Ry. E. T. Pichappan Avargal of Kunnakkudi, Tinnevelly district, dated 9th December 1901,

(ii) Petition from M.R.Ry. K. V. S. Ramachandram Garu and others, Gódávari district—undated; received 16th December 1901,

(iii) Petition from Raja Mantripragada Bhujanga Rao Garu of Ellore—undated; received 19th December 1901,

(iv) Petition from M.R.Ry. T. Latchmi Das Garu, Zamindar of Pallavaram, and others—undated; received 15th January 1902,

(v) Petition from M.R.Ry. P. Narasimha Rao Garu, Kistna district, and others—undated; received 15th January 1902,

(vi) Petition from M.R.Ry. V. Lakshminarayana Garu, Kistna district, undated; received 13th February 1902,

} being copies of the petition from M.R.Ry. Ganjam Venkataratnam Pantulu Garu and others of Cocanada, dated 7th December 1901;

(vii) Petition from M.R.Ry. Lodd Krishna Das Balamukunda Das Garu and others, dated 30th November 1901, being a copy of the petition from Messrs. Parry & Co. and other signatories, received 3rd December 1901;

(viii) Memorandum from the Hon'ble Mr. A. J. Yorke, dated 4th February 1902;

(ix) Petition from M.R.Ry. Lodd Krishna Das Balamukunda Das Garu, dated 10th February 1902, requesting that he should be heard in person or by counsel at the meeting of the Council;

(x) Petition from Raja Venugopala Bahadur, dated the 15th February 1902; and

(xi) Petition from the Madras Mahajana Sabha, dated the 16th February 1902.

THE MADRAS COURT OF WARDS BILL.

The Hon'ble Mr. H. M. WINTERBOTHAM, said:—I have the honour to present to this meeting the report of the Select Committee on the Bill to consolidate and amend the law relating to the Madras Court of Wards, together with the Bill as amended by the Committee, and to move that the Bill as amended be now taken into consideration with a view to its being passed into law. We have, as our report shows, very considerably altered the arrangement of the Bill and the language of many of the sections, and have gone as far as the majority of us deemed wise in the direction of meeting the objections which have been so vigorously urged against those provisions in the Bill which are intended for the preservation of our ancient zamindaris, and of our landed aristocracy. But the scheme of the Bill as introduced remains substantially unaltered. Notice has been given of a number of proposed amendments, which must presently come under discussion, and we can of course all of us foresee in what respects the Bill is objected to, and from what quarters opposition will come. I have felt considerable doubt how much, or how little, it is incumbent on me, as the Member in charge of the Bill, to say at this stage. I might reserve what I have to say until my turn comes to answer the movers and supporters of amendments. I may on the other hand take this opportunity of forestalling some of the objections which I know will be raised, by explaining beforehand the considerations which in the opinion of a majority of the Select Committee should lead this Council to support certain clauses of the Bill which some of the Honourable Members propose to delete. On the whole I think it is the latter course which I should adopt. Many of the Honourable Members present have probably had no occasion to devote close attention to the subject, and are only vaguely aware that the Bill has been fiercely denounced. It may, I think, assist them to form an intelligent opinion on the chief matters in controversy if I explain how those matters stand. The provisions of the Bill which have raised a storm of adverse criticism may be grouped under three heads—

(1) The provisions of chapter V, which follow Madras Act IV of 1899.

(2) The provisions in section 9 (*d*) and section 17, empowering Government, when it thinks such step to be expedient in the public interests, to declare a proprietor disqualified and to vest the management of his estate in the Court of Wards.

(3) The provisions of section 49, which declare that the exercise of a discretion conferred by the Act shall not be questioned in a civil court.

The objections to chapter V of the Bill have been stated most forcibly in a number of memorials addressed to Government, and which have been considered by the Select Committee; and to some of these I think I ought to allude. First and foremost, both in respect of the weight which attaches to the representations of the influential firms and persons by whom it is signed, and in respect of the eloquent and bitter invective in which it denounces the Bill, comes the memorial presented by the bankers and merchants of Madras, and by the Chairman of the Madras Trades' Association (papers Nos. 11 and 13). It is charged against this innocent Bill that it proposes to shake, if not destroy, the stability upon which commercial negotiations have so long rested; to impair, if not annihilate, the foundations upon which alone a system of credit can be based; to trifle with the commercial credit of the whole presidency; to completely subvert the relationship between lender and borrower; and to bring on a state of commercial paralysis. Now, gentlemen, coming from so influential a quarter, this is a terrible indictment, and I can imagine that many timid spirits, who have not studied the subject, may be disposed to think that a measure thus denounced had better be allowed to drop. Let any one propose to drop the Bill and it will be at once perceived that the memorialists are inveighing not against the Bill, but against the existing law. It is not our Bill which is chargeable with introducing the provisions which the memorialists condemn, but an Act which has been for three years on our statute book, and which, as yet, has not brought about commercial paralysis, or any other of the dreadful evils that our memorialists predict. If the Bill be dropped, all its provisions relating to the dispossession of incumbrancers, which are so powerfully attacked in paragraphs 2 to 4 of the memorial, remain the law of the land embodied in Act IV of 1899. In all soberness is it not plain that the denunciations of the Bill are misdirected, and calculated to mislead an uninstructed public? In vulgar language the memorialists are putting the saddle on the wrong horse. As remarked by Your Excellency in your speech at the introduction of the Bill, any proposal to repeal legislation so recent as that of 1899 would be premature. The Act is on its trial, and the machinery it provides has hardly begun to work. Our Bill must necessarily re-enact the main provisions of Act IV of 1899, but it has been possible for us (following a suggestion made by Your Excellency) to insert certain amendments which ought in great measure to dispel the fears professed by the mercantile community lest Government should declare a host of coffee-planters, cultivators, and market gardeners to be disqualified for the management of their property, should then proceed to dispossess all incumbrancers, and should in some way confiscate the crores of rupees outstanding by way of advances to the mortgagors. We propose to provide that the power to dispossess an incumbrancer shall not be exercised unless Government is satisfied, and publishes a declaration that the estate is one which in the public interests should be preserved, and that the dispossession of incumbrancers is necessary for such preservation. It is objected that the phrase "public interests" is vague and indefinable; but the proviso must certainly operate to prevent the application of these special provisions to any ordinary private property. No Government could possibly declare that it was desirable in the public interests that the encumbered estate of an unfortunate coffee-planter, farmer, or market gardener should be preserved and cleared from incumbrances. I will go further and say that such a declaration could hardly be made in respect of any partible property; for how could the public interests require the preservation of an estate which may be split into fragments whenever the joint-owners, or cosharers, choose to sue for a partition? The restriction which we have introduced must practically limit the operation of the special provisions regarding dispossession of incumbrancers to such of our ancient estates as are, or may hereafter be declared to be, impartible and unalienable. Further than this it is impossible to go, unless what the Madras Landholders' Association describes as "the statesmanlike policy which found an embodiment in Act IV of 1899" is to be entirely reversed. It is instructive to turn to paper No. 6 in which the Landholders' Association express their admiration of, and "profound thankfulness" for, the Act which the merchants and bankers so much dislike.

With regard to the objections to section 9 (*d*), I will only now remark that the Legislative Council of the Governor-General presided over by the Viceroy, Lord Curzon, himself, have deemed it expedient to invest the Local Government of the Central Provinces with this power; that it is also possessed by the Local Government of the North-West Provinces and Oudh; and that in neither case is the power restricted as it is by our new section 17, which provides that the power shall not be used unless Government considers that the management of the disqualified proprietor's estate by the Court of Wards is required in the interests of the public. To me it appears that the provision is a legitimate and desirable extension of the policy which enables Government to place the estate of a proprietor under management on his own application. I will not further repeat what I said on this subject at the introduction of the Bill.

I now come to the delicate question, which has raised a terrible storm in a teacup, as to whether or no it is incumbent on Government to subordinate the exercise of the discretion with which this Bill invests it, to the opinion of the District Judge, assisted no doubt by two distinguished members of the local bar. In our newspapers and magazines we frequently find native patriots lamenting the golden age when the substance of the people was not eaten up by the costs of law-suits, when the king sat in the gates of the city, dispensing free justice to the helpless and the oppressed, unembarrassed by the subtleties and technicalities of the law, or by the rhetoric of contending pleaders. But in the few instances where this royal prerogative may still be usefully exercised by the governing power, in a very restricted and limited manner, for the protection of a small class of women, children and helpless persons, and in which the Government proposes to vest in itself the discretion to decide what is best for their interests, how loud an outcry is at once raised! The Government is accused of usurping judicial functions; it is implored to subject and subordinate the exercise of its discretion to the judgment of the district court, to give to next friends and guardians *ad litem* the opportunity of contesting by civil suit every step that the Court of Wards takes, every order that the Government may pass. Now, gentlemen, there are not wanting many who think that the Court of Wards is an unnecessary institution: that the management of the estates of incapacitated proprietors might very well be left to such supervision as the civil courts can afford; and that the natural disintegration of ancient and great estates, which we see in such rapid progress around us, should not be hindered as it has been for the last century by the intervention of a so-called Court constituted for their preservation. In my lazy moments, when I think how greatly the worries of Government would be lessened by divesting itself of any concern regarding wards, I find this policy vastly attractive. Others, and they are at present the majority in power, consider it desirable that the estates and persons of certain minors, and incapable proprietors of both sexes, should receive the protection of the Court of Wards, and that the Court of Wards should be subject in every detail to the direct control of the Local Government. Now this scheme of management is quite incompatible with that other scheme, which would vest the management entirely in the civil courts. If the Court of Wards in the exercise of its discretion selects a manager or a guardian, and the Government approves the appointment, it would be ridiculous to permit a suit to be brought to have the appointment set aside. If the Court of Wards and Government think that a ward should reside in a particular place and undergo a certain curriculum of education, it would be absurd to permit the District Judge to decree that in his opinion another place of residence is preferable and that the education of the ward should proceed on different lines. It is no doubt true that such a suit if brought, and if the courts understand and do their duty, is bound to fail; but this is no reason why the door should be left open to any one who chooses to harass the Court of Wards by involving it in a law suit, in which one advocate will exhaust all the resources of his art in an attempt to persuade the judge that he *has* power to interfere, and the other advocate must similarly labour to show him that he has *not* the power. I cannot help thinking that those who have denounced this Bill as evincing a desire on the part of Government to override the ordinary administration of justice are unaware how closely the policy of the Bill follows what is already the approved law of the land. I believe it may be reassuring to some Honourable Members and that it may possibly modify the opposition of others, if I point out how the Guardians and Wards Act of 1890, which is in force throughout the whole of British India, arranges to prevent friction between Government and the civil courts,—or, if

you prefer it, between the executive and the judicial departments,—in those cases in which the district court thinks it for the welfare of a ward that the Collector should be appointed guardian of the ward's person or property, or both. First of all the Act gives the Local Government power to appoint Collectors (in addition to the existing Collectors) for local areas, or in respect to any class of persons for all or any of the purposes of the Act. This provision obviously contemplates that the appointment of the Collector as guardian may not be infrequent, and in cases in which the Government desires it, will rarely be refused by the court. Section 8 permits the Collector to apply to the district court for an order to appoint a guardian. Section 10 provides that the Collector may address the court by letter, and if he desires to be himself appointed guardian, shall state the grounds on which he claims. The letter, unlike ordinary applications, need not be verified. Sections 17 and 18 authorize the court to appoint the Collector to be guardian of the person or property, or both.

12-40 P.M.

Section 23 (and I beg special attention to this) provides that a Collector appointed to be guardian of the person or property, or both, of a ward, shall in all matters connected with the guardianship be subject to the control of the Local Government. Not a word will be found in the Act defining the way in which the Government shall exercise its control. The Government is credited with the possession of some common sense. The Act goes on to declare what the powers and duties of the court and guardian are, when the guardian is not the Collector; but the Collector is left a perfectly free hand subject to the control of the Government. I am sure that the consideration which the Act shows towards the Collector must be to many of the critics of our Bill a cause of indignant surprise. The Collector is treated throughout as a high, reasonable, and responsible official, with whose discretion the court is not to interfere. Worse than this, the Act in section 46 provides that the court may call upon the Collector for a report on any matter arising in any proceeding under the Act, and may treat the report as evidence. And for the purpose of preparing the report the same section merely directs the Collector to make such inquiry as he deems necessary. What a departure from our adored rules of civil procedure to authorize a court to treat a Collector's report as evidence, without putting the Collector in the witness-box and subjecting him to cross-examination! But the worst is still to come, for section 48 provides that, with some specified exceptions, most of which do not apply to cases where the Collector is guardian, any order made under the Act shall be final, and shall not be contested by suit or otherwise. In like manner as regards persons of unsound mind, section 11 of the Lunacy Act XXXV of 1858 provides that, if the Collector be directed to take charge of a lunatic's estate, the duty of appointing a manager of his property and a guardian of his person shall devolve upon the Collector, and that all the Collector's proceedings shall be subject to the control, not of the civil court, but of the superior revenue authorities. We swallow the Guardians and Wards Act without a grimace—indeed I always hear it spoken of in terms of admiration and approval—though it vests an unfettered discretion in the Collector and the Government, and declares that orders made under the Act shall not be contested by suit or otherwise; but when in relation to another class of wards we provide in our Bill that the discretion vested in Government and the Court of Wards shall not be challenged in the civil courts, the measure is declaimed against as if it involved a violent departure from all established rules of good government. The Council will have to listen to a good deal more on this subject, when we come to discuss section 49 of the Bill, and I will only ask Honourable Members who intend to attack that section to bear in mind the attitude of absolute non-intervention which the Guardians and Wards Act enjoins on the civil courts in all cases in which the estate of a ward comes under the direct control of Government. I will only further ask Honourable Members to bear in mind that as a legislative body we are subordinate to the Government of India and the Secretary of State, and that we must look up to them for guidance, for correction, and for approval. We have before us in the Central Provinces Court of Wards Act an example of the powers which the Government of India consider are requisite for a Court of Wards and for the Local Government. The contested portions of our Bill are for the most part a feeble copy of this Act, and those who dislike it most may find some comfort in the thought that possibly the Government of India may be right, and that we shall not go far wrong if we follow in the path which they have set before us.

I now move that this meeting do proceed to consider the Bill.

The Hon'ble the Maharaja of Bobbili, in seconding the motion, said:—

MAY IT PLEASE YOUR EXCELLENCY,—First of all it is my duty to thank Your Excellency on behalf of myself and my brother zamindars for the permanent welfare which the Court of Wards Bill, the result of Your Excellency's deep sympathy with zamindars, aims to secure to them by the preservation of their estates and families. The zamindars of the presidency, both present and future, can never forget Your Excellency's name on account of the everlasting benefits conferred on them. The general provisions of the Bill are perfectly sound and will certainly achieve the object in Your Excellency's view. However, I beg to suggest one or two modifications still required to make the Bill a perfect one. When my turn comes for moving my amendments standing in the agenda paper I shall speak in detail about them. With these few observations I beg to second the motion that the Bill be taken into consideration at once.

The motion was put and agreed to unanimously.

His Excellency the PRESIDENT:—I beg to move that the consideration of the title and preamble be postponed.

The motion was put and agreed to.

Sections 1, 2 and 3 were passed by the Council.

SECTION 4.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—Your Excellency,—The amendment that I propose is with reference to the definition of the word "proprietor" in section 4. The definition, as it stands, seems to cover a much larger ground than the ground covered under the old Regulation, which is now to be repealed by this Bill. The present Court of Wards Regulation (Regulation V of 1804) limits the operation of that definition to cases of persons paying directly rent or revenue to Government. The definition that we now have for "proprietor" includes a person who owns or has a life interest in land, without the qualifying words "paying directly rent or revenue to Government". The difficulty I feel in adopting this definition is that there are not given any reasons in the statement of objects and reasons or in the subsequent papers for this extension of the definition. There is no doubt that this Bill is intended for good purposes and has been brought into existence out of beneficent motives on the part of Government. There are properties and properties. What is good in one case may not be good in another. It is only in cases of considerable importance this Regulation is to be applied, and then the Government, through its subordinates, takes the direct management and the guardianship of the property of the ward. As the definition is put in the Bill, it might apply even to cases in which it is not the intention of the Government that the Bill should apply. For example, taking the word "land" as given in the definition, it might apply to a case which does not satisfy the conditions contained in the old Regulation. A person may own a small bit of a house or a chattram or a mantapam or a shop in the mufassal, where the lands pay nothing whatever, being within gramanath, and he might also have moveable property. The question is whether it is intended that that property should be taken up by Government. Instances like that can be multiplied. We are convinced that it is not the intention of Government to take up such property. I have considered the question whether, though Regulation V of 1804 has been limited in this way, anything has transpired within the last century which induced the Government to take a larger step and make the Act applicable to other properties which would be covered by this section. On that matter we have not been supplied with references or copies of correspondence with the Government of India or other authorities giving the reasons why this definition should be altered in this form. When we consider also the recent enactments, to which reference has been made, passed by the Government of India in the one case, that is for the Central Provinces, and for the North-West Provinces by its own legislature, we find that, so far as the views of the Government with reference to the application of this enactment are concerned, they have not undergone any change. Referring to the Central Provinces Act which was passed in the year 1899, there the word "land" is defined as including "the rights of a landholder in respect of the land of which he is the málguzár or zamíndár or the muáfidár, jagírdár, ubáridár or other assignee of land revenue, or in which he is interested". The owner of such land is the landholder. In the North-West Provinces Act "proprietor" means the

person entitled as proprietor to any beneficial interest in a mahal or taluqa. Taluqa means an estate in Oudh to which the provisions of the Oudh Estates Act of 1869 apply. In all these Acts, it is the property or the land which pays revenue to Government in some way or other. There is another Act which is more to the purpose of my present amendment—the Bengal Court of Wards Act of 1879 as modified by the subsequent amending Act of 1892. That Act defines an estate in this way: "All lands which are borne on the revenue roll of a Collector as liable for the payment of one and the same demand of land revenue". It is almost identical with the definition we have in Regulation V of 1804. Considering the old Regulation—Regulation V of 1804—and the provisions of the Bengal Act of 1879 and the more recent enactments relating to the Central Provinces and North-West Provinces, and the one passed recently by the Bengal Legislature, all these enactments tend to the same conclusion, namely, that the intention is to apply the provisions of the Court of Wards Act to cases of land where that land pays revenue to Government. I might also point out that the original intention of all these enactments was, as stated in the debate on the passing of this enactment in 1899, before the North-West Provinces Legislative Council, to secure the land revenue. Subsequently the idea of helping incapable zamindars and also minor zamindars has come in, and the Government stepped forward in the position of *parens patriæ.* The main idea of the Court of Wards and the Government taking the management of these estates was to secure the land revenue. That being the case, the property which is generally to come within the scope of this Bill must be, to a large extent, the property paying land revenue. I would also invite the attention of the Council to the provisions of section 12. Even though the definition stands as it is, without any qualification, practically the idea, that it is only the property which pays land revenue to Government that ought to come within the purview of this Bill, is carried out by section 12, which prescribes the limits within which Collectors should report for action being taken. The section says "Provided that in the case of proprietors of land on which the annual revenue payable to Government is less than Rs. 10,000 or of which the annual rent value as defined in the Madras Local Boards Act, 1884, is less than Rs. 20,000, the District Collector need not report". Ordinarily therefore under this section it is an estate which pays rent to Government of certain value that will come under the Court of Wards. Even though option is given to the Collector to report other cases also, I think the proviso, as it stands, means that the option is given only with reference to land which pays some revenue though it may fall short of the amount prescribed in the section. The amendment that I propose to the definition is practically carrying out the intention of section 12 and is in consonance with the old Regulation. It is also in consonance with the provisions of the recent enactments that have been passed. I submit that the limitation that I propose does not, in any way, derogate from the powers which the Court of Wards has been exercising throughout. So long as no specific reason has been shown for the exercise of larger powers, I submit that the amendment may be accepted. My amendment is: In the definition of "proprietor" insert between the words "interest" and "in" the words "either solely or as a co-sharer" and substitute for the words "either solely or as a co-sharer" occurring after "land" the words "paying directly rent or revenue to Government".

The Hon'ble P. Ratnasabhapati Pillai Avargal seconded the amendment.

The Hon'ble Mr. H. M. WINTERBOTHAM:—I am rather surprised to hear my honourable friend say that no specific reason has been given for maintaining the definition of "proprietor", as it now stands, because the subject was thoroughly discussed by the Select Committee, and the amendment which my honourable friend proposed was rejected. The object, or effect, of the proposed amendment is to prevent the Court of Wards from intervening for the protection of incapacitated proprietors unless their landed property happens to be subject to the payment of rent or revenue direct to Government. Now there may be considerable landed estates which pay neither rent nor revenue to Government. Proprietors of whole inam villages and of minor inams have long possessed the privilege of redeeming the quit-rent on their estates by payment of a lump sum down. The proprietors of our great estates have often in the past made large grants of land to relatives and dependents, and these, being what are called subsequent inams, pay no rent or revenue direct to Government. Then there may be other estates the land revenue on which has been redeemed under

1 P.M.

rules no longer in force. Such alienations of revenue were not infrequent at one time. I may point out that sections 3 and 11 of Act XXXV of 1858 relating to lunatics allow the Collector to apply for an inquiry, and permit his being placed in charge of a lunatic's estate if it consists in whole or in part of land, or of any interest in land. Nothing is said about the land being subject to payment of rent or revenue. Thus the test applied in our definition of proprietor is not without a precedent. It is obvious that the old test which my honourable friend wishes to maintain is an unsound one, and might deprive many estates and disqualified proprietors of that protection which the Court of Wards is intended to afford. The Honourable Mover of the amendment assumes that the sole object of the Court of Wards is to protect the interests of the Government in the matter of its land revenue. But this is not an up-to-date view, and is one which the Government does not accept. One great function of the Court of Wards is to protect the young and the helpless. I submit that the amendment should be rejected.

The amendment was put and lost, three voting for and eleven against it.

Sections 4, 5, 6, 7 and 8 were passed by the Council.

SECTION 9.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—Clause (*d*) of section 9 is, as has already been pointed out by the Honourable Mover of the Bill, a moot point of contention and it has been so ever since the Bill was published and introduced into the Legislative Council at Ootacamund. It is one of the very few sections that has raised the strongest objection; and I have not within the last some years that I have been in the Council seen any measure that was placed before this Council which evoked such unanimous opposition from all quarters. Long before the matter came up for debate at Ootacamund, the press was full of comment, all in opposition to it; and I do not find even one paper speaking in favour of it. In Council it had, no doubt, from a few members a very strong opposition. The opposition then was against the provision altogether and it advocated the omission of clause (*d*). The amendment which I am going to propose is not in that direction; but it is altogether in a different direction. The matter went up before the Select Committee, and there also the provision was strongly opposed. After close discussion for nearly two days the Select Committee was equally divided, and the motion for getting the adjudication of civil courts was lost by the casting vote of the chairman. Even that, I submit to this Honourable Council, was a bare chance. It would have been carried if my colleague to the right (Mr. Ratnasabhapati Pillai) who was a member of the Select Committee had been present on that day or at least if the letter which he had sent in favour of the motion that I made had been counted as a vote. In that case what I am now proposing would have been passed in the Select Committee and adequate provision would have been made then and there, and I would not have had to trouble this Honourable Council with this motion on the present occasion. Subsequently also we find that petitions after petitions have been coming in, and I must also mention that on this matter the public opinion is all in one side. Outside this Council chamber we find European and native opinion coincide in this matter, we find papers of all shades of opinion, vernacular, English and Anglo-Indian papers, expressing a single opinion in regard to this provision, so that I may take it that the position is practically unanimous outside this Council chamber. I might say that at the voting in the Select Committee even one of the Honourable official Members voted for my motion. I make these preliminary observations for the purpose of entreating Your Excellency that this matter might be treated in this Council as an open one and that the Government might leave the voting to take place without expressing any opinion, this being a matter in which opinion was so equally divided in committee; and I may venture to say the opinion is very strongly against it outside this Council chamber. I do not know what the vote of this Council will be after the debate, but I venture to think that even if I should be in the minority it would be no mean minority. Under these circumstances, I would entreat Your Excellency that this question may be treated as a neutral one so that every member could vote as he pleases. When the idea of obtaining the adjudication by civil courts for the class of persons mentioned in clause (*d*) was rejected by the Select Committee, the Select Committee was gracious enough to provide two sections to allay, to some extent, the alarm felt by the public. They are sections 13 and 17 of the Bill. Section 13, in the place of inquiry and adjudication by civil

courts which I brought forward and for which I submit there is very strong support, directs that before the Collector reports under clause (*d*) of section 9 he must give reasonable opportunity to the party concerned to adduce his evidence and he must hear him. Then there is another paragraph which says "All questions as to whether the provisions of this section have been complied with shall be decided finally by the Local Government." No doubt that appears at first sight as some kind of palliative to the question raised, but if you look into it a little deeper you will find that this is practically useless because while the obligation is cast upon the District Collector to give notice to the proprietor and to hear his evidence, the Bill makes no provision to enable the proprietor to get copies of the evidence which might be adduced against him, nor is there a provision made for the purpose of enabling him to make representations to the Court or the Government with reference to the report. There is no provision for getting copies of evidence or report made by the Collector to the Court or the recommendations made by the Court to the Government; there is no provision to enable him to make representations and to place his views before the Government, in case they should be opposed to the views that might be held by the Collector or the Court. In that view that section is practically useless and will not be welcomed as a concession granted to the people. The next concession granted is section 17 which lays down "The Local Government shall not declare any proprietor to be disqualified under clause (*d*) of section 9 unless satisfied that it is expedient in the public interests that his property should be managed by the Court, and a statement to this effect shall be inserted in the declaration made by the Local Government as provided in sections 15 and 16." So far as it goes, I certainly welcome that provision. It puts aside estates and properties of insignificant value, which there could be no object for Government taking charge of and managing. It confines the management of the Court of Wards to cases where the Local Government considers it expedient in the public interests. But this test is of a different nature. So far as the question of public interests is concerned, I readily admit that the Local Government must be the sole judge. But I cannot say the same in regard to the determination as to the incapacity of the person to manage his estate on the ground of his physical or mental defect; and the question is whether the provisions of clause (*d*) of section 9, as it stands, is sufficient for the purpose. The real reason why the people are so alarmed as to the provision of this clause, as it stands, will appear when we compare the effect of section 9 in its operation with reference to sections 15, 16, 20 and 24 of the Bill. Section 15 lays down "The Local Government, on receipt of the Court's recommendation, may in any case falling under clause (*b*) or (*d*) of section 9 declare the proprietor to be disqualified, and in any case falling under section 9 may order the Court to assume the superintendence of the person or property of the proprietor or of both." So that by the issue of a declaration under clause (*d*) of section 9, the superintendence of the person or property of the proprietor or of both may be assumed by the Court under the orders of Government and there is no qualification prescribed in this Bill as to the specific conditions under which the superintendence of the person could be assumed under the orders of Government. There is another section which is of greater importance in connection with section 9, clause (*d*). Section 16 says "The Local Government may, at any time, make the like declaration and order in the case of a proprietor who is, or in its opinion ought to be declared to be, disqualified under section 9, although no report concerning him may have been submitted by the District Collector to the Court, or by the Court to the Local Government." Even that modicum of protection which was vouchsafed under section 13, namely, that the District Collector should give notice to the proprietor and take his evidence, is not afforded under this section; and the Local Government, for reasons of its own, on information which it may get and which it may not be in the power of the proprietor to know, practically on demi-official correspondence of which nobody has any knowledge, may declare a person disqualified, and the result of that would be the superintendence of the person will be assumed and his property taken possession of. If you consider some of the clauses of section 24, the further effects will be more clear. When the superintendence is assumed, what happens? Section 24 lays down "The Court may make such orders and arrangements, as to it may seem fit, in respect of the custody, residence, education and marriage—(*a*) of any ward whose person is for the time being under its superintendence * * *". The result of that would be that without the receipt of any report, as soon as the declaration is made, the superintendence over the person of a proprietor may be assumed for reasons which are not stated in the Bill. They may be valid reasons or

unfounded reasons. Inasmuch as the proprietor is not given the chance of seeing the information upon which the Government acts and contradicting that information, there is no warranty for saying that a different state of things might not exist. Under the operations of sections 15 and 20, clause (2) the superintendence over the person may be assumed for reasons which he could not know and he may be deprived of his property for reasons which he could not know. The necessary consequence will be that the Government will be at liberty to fix his residence and fix his custody which, in the absence of adequate reasons, will be tantamount to nothing less than imprisonment. That will be the result of the section. I am taking an extreme case, but we must judge of the logical effect of these sections by extreme cases. I do not imagine nor do I conclude that the Government will do it, nor will any person be wrongfully confined. But no person who reads this Bill can avoid that conclusion. We are putting on the statute book an Act whose evident and logical interpretation will be that and nothing but that. I take my amendments 1 and 2. But there are other amendments which will be merely consequential on the present motion being carried. So I need not concern myself with those amendments but only with these two amendments. My amendments are: In clause (*d*)—(1) Insert between the words "proprietors" and "declared" the words "adjudged by a competent civil court and thereafter"; (2) after the word "Government" insert "as provided in section 17." The effect of these amendments will be that there will be two tests to be applied. So far as the physical or mental defect or infirmity is concerned, a competent civil court will adjudicate, after taking evidence or such other measures as are open to civil courts, that he is a person suffering from a physical or mental defect, rendering him unfit to manage his property. Under section 17, the Government could not declare that a person is incapable of managing his property unless it considers that it is expedient in the public interests that the property should be managed by the Court of Wards. There are two things to be determined with reference to an estate. The first is whether it is expedient in the public interests that the estate should be preserved and managed by the Court of Wards. That test cannot at all be applied unless the person is physically or mentally deficient to manage his property which factor will have to be determined by the civil court. That is the form of the amendment which I have adopted. I may at once point out that it leaves all the provisions of the Bill intact and does not touch them. The report of the Collector under section 13 would do for the purpose of the Government taking preliminary action with regard to an estate, before it is too late. But the final order will come in when a competent civil court has adjudged the incapacity of a person. In considering this amendment for obtaining the adjudication of civil courts if precedent is necessary I have a precedent and I follow that precedent. It is clause (*d*) of section 6 of Bengal Act IX of 1879 which says "persons adjudged by a competent civil court to be otherwise rendered incapable by physical defects or infirmities of managing their own properties". We have to consider whether there is any reason whatever to shut out altogether the jurisdiction of the civil court in this matter and to vest the power in Government. If we compare the provisions of clause (*c*) with those of clause (*d*), we find that under clause (*c*) persons will be declared to be disqualified if they are adjudged by a competent civil court to be of unsound mind and incapable of managing their property. If that be the case, the next question to consider is whether in the case of persons who are not lunatics, idiots or of thoroughly unsound mind, but who falling short of that mark are still mentally weak and incapable of managing their property, there is any particular reason to oust what would otherwise be the ordinary jurisdiction of civil courts. For that position, I find absolutely no reason whatever. If you consider, and so the Government has considered, that the civil courts are the proper tribunals for the purpose of adjudicating in the case of persons who are lunatics or idiots, what reason is there to suppose that they are not quite competent to adjudicate in the case of other persons suffering from a physical or mental defect. In the statement of objects and reasons, the reason that is given for proposing this provision in this form is—

1-20 P.M.

"Clause 8 includes among the proprietors disqualified for the management of their property not only those who are deemed incompetent by reason of sex, minority or lunacy, but also persons whom the Local Government may declare to be incapable of such management owing to any physical or mental defect or infirmity which unfits them for the duty."

The ground given in the statement of objects and reasons for proposing this clause in this form, namely, to get a declaration from the Local Government without the intervention of civil courts, is that the civil courts would require proof of actual lunacy or idiocy before it could declare a person to be incapable, and the Lunacy Act does not provide for mental condition which is short of lunacy; in that case a civil court would not grant declaration and it is on that ground the provision was put in that form. But that reason would altogether vanish if we could make a provision empowering the civil courts to declare a person disqualified, not only on grounds of lunacy and idiocy, but also on grounds of shorter weaknesses and lower stages of mental aberration which would incapacitate a person from managing his property. If that could be done, there is no reason for saying that it could not exercise its powers in the same way as it does under the Lunacy Act. That such a power could be given, and could be exercised in similar cases, is proved by the existence of a similar provision in the Bengal Act which I have just now read. Considering the full scope of clause (*d*) of section 9 with the explanation given by the Honourable Mover of the Bill at the stage of the introduction of the Bill, wherein he referred to cases to which the provision would apply, namely, extravagant, foolish and prodigal people who run through their estates, "it is better to stay the hands of the wasteful and extravagant prodigal in time to save his estate than to allow him to go on through his downward course, etc." This provision is similar to the provision contained in the Acts for the protection of prodigals in Europe. Almost every country in Europe has an Act for the protection of prodigals. Those Acts apply to all people and not to any specific class. There is one thing that is significant. In all these Acts it is the civil tribunal of the country that has to find out and determine whether the person is a prodigal, incapable of managing his property, and then other measures are taken to protect the estate. Considering that the provision in the present Bill is similar to the provision contained in the Acts in Europe to which I have referred, there is no reason why we should adopt a different procedure from that adopted in all the civilised countries, where it is the civil tribunals that are asked to determine this matter. I cannot possibly understand what there is in the character of an Indian prodigal which is so different from that of prodigals in other countries to justify this special nostrum. I cannot understand why this unique provision should be made for curing the disease of Indian prodigals. If there is nothing peculiar in the nature or the constitution or the character of these Indian prodigals, necessitating the exclusion of the ordinary civil court jurisdiction for the purpose of determining whether he is a prodigal, whether he is afflicted with a mental or physical infirmity mentioned in this clause, is there anything inherently wrong in the civil courts which renders it unsafe that we should entrust the determination of this question to the civil courts? I, for my part, cannot imagine anything to warrant that suggestion.

His Excellency the President:—May I remind the Honourable Member that there is no question of prodigals involved in this Bill?

The Hon'ble C. Jambulingam Mudaliyar Avargal:—At the introduction of the Bill it was said that this Act might be usefully applied in the case of a person who was extravagant and wasteful and running through a course of ruination; that such a course might be due to his mental weakness and he should be brought within the control of the Court of Wards. If that explanation is to be applied to this clause, then I thought, Your Excellency, that it was more or less on a par with the enactments for prodigals, though it is not expressly said so.

His Excellency the President:—The clause on which the Honourable Member is speaking refers to physical or mental defects and contains no reference to prodigality. That must be perfectly clear to the Honourable Member.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—If that is so, I leave that part of the subject. Limiting my observations to the clause as it stands, I have nothing to withdraw from the observations that I have already made. As to civil courts exercising jurisdiction, I have heard only one or two objections. One objection is that there would be delay in taking up the management and possession of an estate if, in any and every case, a resort is to be made to civil courts. That looks like an objection only on the surface, but really it is no objection at all. Sections 10 to 14 enable the Collector to report and to take orders in regard to property, etc. Section 14 distinctly lays down "The Court shall consider the Collector's report, and except in the case of female proprietors, *not being minors*, whom it decides to leave in charge of their

property, shall report the case to the Local Government with its recommendation, and pending the receipt of orders shall have power to take such steps as it may deem necessary for the protection of the person and property of the proprietor in question." That difficulty does not arise there. Supposing there is a delay—I do not suppose there will be any inordinate delay in the inquiry—that will not interfere with the Court's power, on the report of the Collector, to take charge of the property and also to make special orders with reference to the protection of the person. That objection vanishes altogether, when we consider the real scope of sections 10 to 14. I may as well point out if that objection is taken to clause (*d*) of section 9, a similar objection will exist in regard to clauses (*a*), (*b*) and (*c*) of section 9. How will the Court proceed with reference to persons falling under those clauses? The Court has power to proceed in those cases and take the usual action. If that objection will not avail with reference to clauses (*a*), (*b*) and (*c*), it will not avail with reference to clause (*d*). That apprehension of delay in the investigation of civil courts does not seem to me to be a valid and well-founded ground. These matters are disposed of on petitions and not by regular suits. We all know that proceedings by petitions are done quicker than by suits, which, on account of the larger interests involved, take a long time for being disposed of on account of the more complicated system of inquiry which has to be adopted. The disposal of petitions is of a different nature altogether and is of shorter duration. It is said over and over again that we must have confidence in the wisdom and justice of Government and the question is often asked: Have you not got confidence in the justice and wisdom of Government? I submit that such a question is altogether beside the mark. There is one paper which I wish to read—Mr. Justice Benson in his minute states thus on the scope of the provision that we are asked to enact—"The Bill, especially in sections 8 (*d*)" [now 9 (*d*)] "and 15, gives the Government immense powers, but, believing as I do in the wisdom and justice of Government, I do not regard those powers as excessive"; nor is there a greater adorer of the wisdom and justice of the Government than myself in the abstract. But what I submit is that it has to be qualified by this condition, namely, "provided the channels of information on which the Government acts are pure". The Government will undoubtedly act with the best of intentions and exercise the best wisdom and justice, but that will certainly not compensate for the errors that it might fall into from information which will reach it through impure and contaminated channels. That question, as I have already said, is beside the mark. The question that should be put is not that; but the question is: What grounds have we to lose confidence in the wisdom and justice of our courts of justice? have we lost confidence in courts of justice? These are the ordinary tribunals which are vested usually under the common law and under the statute law with the power of determining such things in any particular case. To divest them of that power, we must have strong and substantial reasons. The question to be asked and answered is: Have you got confidence in the wisdom and justice of our courts? If the answer is in the affirmative, there is absolutely no justification whatever for withdrawing the power which is ordinarily vested in civil courts. The other question is truly beside the mark, speaking with great deference to his Lordship Mr. Justice Benson. He has not looked at the point in the right aspect of the case. In this respect I will just read a small passage contained in a very valuable book by the author of Progress in the Madras presidency during forty years. Speaking on the subject of zamindars, their present position and past condition and their future improvement, he says—

"If they (the zamindars) could be assisted to maintain their ground without the aid of legislation of any drastic character involving violent interference with private rights and weakening motives of self-help, it would, it seems to me, be good policy on the part of Government to afford that assistance."

That opinion comes from a gentleman of considerable eminence whose views have been considered to be of great value and whose book has been patronised by Government. Therefore I submit that unless we have very strong reasons that we can state openly, as to why we should divest the civil court of its usual power, there is no ground or justification for taking that course. It has been pointed out in the opening speech of the Honourable Mover of the Bill that our Bill corresponds to the enactments passed in other parts of India, but we are not in possession of the circumstances and conditions under which those Acts were passed. When the draft report of the Select Committee was circulated to Members for approval, it was written down with

reference to section 49 that it was taken from Acts of other provinces, and a reason was suggested as to why such a provision was enacted in those provinces. To that I objected on the ground that there was no authority for the suggestion as to the purpose why such a provision was enacted, and the suggestion in the draft report was omitted. Similarly I object and say there is no authority showing why this section was passed, and if no particular reason can be assigned, there is no necessity to retain the clause. In matters like this, unless there are identical reasons and identical circumstances, it does not seem to me to be a proper mode of legislating to simply copy the provisions from some other Acts. The argument adopted is that simply because it is in the North-West Provinces Act and could not have done any harm, there is no reason why we should not copy the provision here. That is not the spirit in which we should make our legislation. Unless there are reasons for introducing these provisions, they ought not to be introduced. In this view of the circumstances I submit that it will be hardly good policy and statesmanlike that we should create among the people a feeling that for some mysterious and undisclosed reasons the Government is losing confidence in the justice and wisdom of its own tribunals. That is not the truth, but that will be the feeling created among the people; we have nothing more to judge than by outward appearances. Under these circumstances, we should take this matter into deep and careful consideration before enacting this provision. I would conclude with repeating my earnest prayer that this subject might be treated as an open one and voted upon without being made a Government question.

The Hon'ble Mr. Eardley Norton:—In seconding the amendment before this Council, I desire to add a few words to explain my attitude towards this particular clause. The question is whether the Government ought to be the sole and primary authority which is to decide on the physical or mental defect or infirmity of any particular individual and whether upon that decision the Government is to take possession of that man's property. Speaking for myself, I answer that question without hesitation in the negative. The powers which this Bill seeks to create are a great innovation on the general principles of the law. To oust as this clause in effect does the jurisdiction of the civil courts, and to take away powers from persons who by training and education are specially fit and competent to decide questions of the sort upon evidence, in public, and to invest those powers in a sort of inferior tribunal which, whatever be its intelligence and its honesty—and I admit both—is not by comparison as fit to decide such cases, and which is to decide them in secret is, in my view, injudicious and undesirable. It puts the inferior in the place of the superior tribunal, and very strong reasons should be advanced before you can expect us to give our assent to an innovation of that kind. Not a word has been said as to the reasons for this extraordinary departure from the general policy of established practice. Only one reason has been advanced as can be gathered from the Hon'ble Mr. Jambulingam Mudaliyar's speech—one obstacle which this clause seeks to meet, it is said, is the question of delay. To what he has already observed, I wish to add this: that if there really be any well placed apprehension that the proceedings of the civil courts would be likely to create difficulties, there is the easy expedient that the Court of Wards shall take possession in the meantime pending the decision of the civil court. That seems to me to be final and conclusive with reference to the question of delay. One other objection I see in the memorandum of the Honourable Member who represents the Chamber of Commerce. He says that objection has been made that appeals to the civil tribunals might make scandals public. That objection is of little weight, and if the facts are really scandalous, the court could hear such cases *in camera* as they hear cases of divorce. Neither upon the question of delay nor upon the question of expediency and of diverting publicity from these proceedings, has any case been made out for the proposed power being taken by Government. I say this is an innovation, Sir, upon the general principles of the law. I attach very little importance to the opening statement made by the Honourable Member in charge of the Bill, when he leant upon the authority of two Acts, namely, the Central Provinces Act and the North-West Provinces Act whose authority he quotes in favour of his view—that these are living enactments which justify the powers that he is claiming on behalf of Government. I may be wrong, but I think I am right when I say that both these Acts are later in date than our Act IV of 1899 and when those Acts were enacted the authority of our Act IV of 1899 was quoted in the Legislative Councils of the Central Provinces and the North-West

Provinces as a justification for those Acts. What you are really asking us to do is not to rely upon the authority of those two Acts, but to justify our improper action of 1899. Your authority thus investigated crumbles away. The two Bills that you quote as authorities are not precedents. Two other provinces justify their legislation by quoting our Act, and the Government now quotes them in turn as precedents for the present legislation! Moreover, they rest upon a legislation with which I had no concern and which, I still venture to consider, is unjustifiable. It is quite true, as His Excellency remarked, that this clause has nothing to do with the law of prodigals, but a pertinent argument drawn from the law of prodigals appears to be applicable to the discussion which is now under progress. The Council is aware that in England there is no such thing as a law of prodigals, and the nearest approach to it is the interference of the Courts of Equity with regard to unconscionable bargains with expectant heirs. But in Italy, France and Germany, and I am not sure whether the law does not so hold in other parts of Europe, there is a distinct law of prodigals in reference to which I wish to make this one comment. These laws of prodigals are for the benefit of the people at large and not of one particular sect. That is one of my objections to this particular Bill. This is really class legislation; it is not a legislation that affects all persons alike. With reference to the law of prodigals, the intervention is sought and is afforded on the principle that it is wrong, in the general view of the State itself, that persons in possession of large properties should be permitted to squander them, leaving their children and family helpless, a burthen upon the community at large. I am not sure whether, if this Government were to bring in a law in the shape of a law of prodigals, I would not give my hearty support to it. There is much to be said in favour of such a law, based upon large considerations of public safety and fenced by safeguards of a public trial before a trained, an impartial and a competent tribunal. In all those countries without exception no such declaration as is now sought to be made under section 9 can be made without the public adjudication of competent civil courts. In addition to this, there is in some countries the further safeguard of what is called the family council, so that you have two courts on the continent before the Government steps in as a parent and insists upon taking charge of the properties of persons who by reason of mental and physical incapacity are not able to manage the property in which the State holds that their children ought to have a share. I venture to submit that the principles which obtain on the continent of Europe with regard to prodigals are at the least as good an authority for my view and for the contentions which I am pleading, as is the authority quoted by the Honourable the Mover of this Bill who referred to two Acts based upon our own Act of 1899 in support of the contrary view. In addition we have the authority of the Bengal Act which was passed in the year 1879. The Bengal Act does not provide for the large usurpation of authority which the present Bill seeks to provide. The Bengal Act distinctly states in specific terms that the intervention of the Court of Wards can only proceed upon an adjudication by competent civil courts. After twenty-three years' working of that Act, it has not yet occurred to the legislature of the Bengal Province to suggest that that Act should be enlarged in the direction in which our Local Government is seeking to take powers. I also wish to emphasise the comment made by my friend Hon'ble Mr. Jambulingam Mudaliyar—not this day, but at the previous meeting—that we are not to be in any way silenced by the assumed assent of the Viceroy elsewhere to the principles of this Bill. We know nothing of the conditions under which this assent was given; and the correspondence is not before us, so that I cannot see how anything that the Viceroy has said or can say, can or ought to have the slightest effect upon the Members of this Council, as to the course which they should honestly adopt with regard to provisions that they are called upon to enact. I say, Your Excellency, this is an enormous and tremendous advance upon anything that I have been able to lay my hand on in the general principles of the law and it raises the question, which has been raised by my honourable friend, as to whether the fact of the Government seeking to take these enormous powers is due to its distrust of the civil tribunals and to its distrust of the High Court and District Court judges. If it is not, then this power is unnecessary. If it is, the remedy is to improve your judges. But do not ask us to assent cheerfully to principles so large, so vague and so alarming as are the principles embodied in clause (*d*) of section 9. Looking through this Bill, we are told that, if we read section 9 with section 17, we shall discover a certain amount of alleviation for our sufferings, and a little more in section 19. In the somewhat lively speech made by the Honourable Member

in charge of the Bill, he told us that we ought to be grateful for the accommodation which has been afforded us by the deliberations of the Select Committee. I venture to submit that this Bill has come out of the hands of the Select Committee almost exactly as it went in, except with the addition of a few words which are nothing but an empty delusion of mere sound. Those words are "in the public interests". We are asked to accept this addition of the words "in the public interests" as being a complete solace for all our fancied woes, and we are told we ought to be grateful for this giving way to the pressure of various critics. Your Excellency, I cannot understand how any legislation proposed by the Government can ever contemplate anything except the public interests. That being so, there is no necessity for the incorporation of these words in any section of the Bill. They are pure surplusage. I do not suppose any Honourable Member would stand up and say that he proposes to move the introduction of a Bill which, in his opinion, shall not be in the public interests. The very fact of moving the Bill must postulate the statement that the Honourable Member is acting in the public interests. What possible advantage is achieved by the incorporation of these words in any one particular section? I think the fair answer is none. I will not say that they were put in merely to deceive. I can well understand readers who do not think much over their reading, the outside public for instance, being caught with this *ad captandam* appeal that the public interests have been specially provided for in some mysterious fashion by this euphemistic phrase. But it will not deceive the thoughtful. I pass on from section 9 itself to look at section 13. Is it true that here I find some little concession? I find that a proprietor, before he can be disqualified, is to receive notice of the intention of the Government, and is to be afforded reasonable opportunity of adducing his evidence. But, as pointed out, all the evidence upon which notice is issued is to be withheld from the gaze of the person who is to be disqualified and he will be asked to show his hand first. All I have to say is that this is a serious travesty on the general principles of the law. If you intend to take possession of a man's property on the ground that he is mentally and physically unfit to retain possession of the same himself, surely, in all fairness, you ought to give him ample and detailed reasons for your action, and put clearly before him or his friends all the grounds upon which you intend practically to confiscate his property. What little gratification I might have received from reading the provisions of section 13 is all submerged and drowned by the provisions of section 16, because while a Collector, if he chooses to take action, is bound to give notice to the person whose property he intends to take away, the Government is bound to do nothing of the sort. The Government, at a moment's notice, without giving any information as to the ground upon which it is going to act, could, under this section, without calling upon the person to show cause or without giving him any reasonable opportunity for being heard or without allowing him to adduce evidence,—I cannot use a milder word,—confiscate his property, I do not say for its own benefit but for the supposed benefit of those for whom this legislation is said to be required. One feels all the more alarmed when one sees that the slender protection afforded by section 13 is absolutely taken away by section 16. Let us with that knowledge turn back to the clause under discussion and ask why is it the Government is seeking by clause (*d*) of section 9 to clothe itself with these enormous powers. We have heard a great deal about the discretion of the Government being synonymous with wisdom and beneficence; we have heard Your Excellency express some surprise why that discretion should be questioned by any one. I am entirely with those who say that, on the whole, that discretion is exercised fairly well. I concede that with pleasure, but that does not incapacitate me from suggesting that so long as human beings are human beings and so long as this Council consists of human beings and not of angels, this discretion being only a human quality, ought not to be exercised in secret and without the protection of publicity and of appeal or revision by the executive who are not trained lawyers and who necessarily cannot exercise it in the same way as it would be exercised by judicial tribunals who are taught by a lifetime's study to appreciate evidence, to discuss motive and to determine conflict. I trust that Your Excellency's rule will not be marred by any of the unfortunate incidents of former years. We have been asked to shut our eyes to accomplished facts which shed a singular light on this very question of how the Government occasionally uses its discretionary powers. I have been here for close upon a quarter of a century and have seen things happening during those twenty-five years, which abundantly justify any scepticism and make one unwilling to enlarge the field within which the Government shall make use of an unquestioned discretion. With these matters in our recollection, I would ask whether we have not abundant justification for

the unfaith which is in us. I do not wish to recapitulate the many lamentable occurrences of the past, but I will take one incident out of many. We who look back upon the way in which the powers of the courts at Salem were arrested, who recollect how new tribunals were without cause suddenly made to supplant the old, how a large number of innocent persons were deported to the Andaman islands and were brought back only under the direct pressure of Lord Ripon, we who recollect how the honourable gentleman who used to sit here, Mr. Vijayaraghavachariyar, was evicted at the discretion of Government from his seat on the municipality in Salem and how he was brought back to that seat only after protracted litigation and a judgment by the High Court, may fairly take leave to say that we have abundant materials for distrusting the perfection of powers used without the check of publicity and removed from the salutary criticism and control of the civil tribunals. For these reasons, I support the amendment of my honourable friend. I am unable to accept the light-hearted method in which the Honourable Member in charge of the Bill dealt with the bankers' petition. Who the distinguished lawyers are to whom he referred I do not know, as he did not give us the names; but so far as the bankers are concerned, I am at one with them, because in some respects I, too, represent a bank. I rejoice that with this Bill on the table the Commercial Bank has completed its title to the Kannivadi zamindari by sale under a decree of court. I venture to say that the position of the bank would have been on the verge of bankruptcy, if at the moment it were the mortgagee and not the proprietor of the Kannivadi zamindari. If it were only the mortgagee, it would have been open under this section for a benevolent Government to exercise its unfettered discretion and to take over the zamindari either compulsorily or at the instance of the impecunious zamindar, who, on a suggestion from the tahsildar, might apply under section 19. In that event the bank might have had to wait under the rules to be framed for a period of twenty years or more for the payment of its fourteen lakhs, even if it got them then. I venture to think that is rather a strong position for one who represents mercantile interests to take—it is rather a strong piece of evidence for me to adduce when the Honourable the Mover suggests that unqualified discretion should be vested in the Government under clause (*d*) which, in the public interests—I am using the honourable gentleman's phrase—, it is desirable that the Government should possess. I do not say that the Government would treat the bank as I have suggested. But that is not the basis of my objection. I object to investing any body of gentlemen with these enormous powers, no matter how wise and benevolent they may be. I recollect also that the opposition to this Bill is by no means limited to a small class. It is not merely the bankers of Madras who have ventured to speak on this subject. We have very strong opposition from landed proprietors, and we have also opposition of a determined character from my friend from Cuddapah. It seems to me that there are singularly strong and united streams of objections flowing in against the principles involved in this particular section. I would ask one question which I would like the honourable gentleman to answer. What is the reason why the Government is seeking to take these powers? I trust you will believe me when I say—I am not speaking in any spirit of captious criticism—that I am quite as anxious as the Honourable the Mover is that legislation should proceed in the direction of preventing wanton waste to the ruin of wife and children and to the detriment of the State, and I would give, whatever might be its worth, my support if this legislation were intended to embrace a much larger class than that for whose advancement it professes to be careful. Personally I have little sympathy with the reckless and dissipated zamindar, and I am not enamoured with the prospect of restoring his ancient dignities. But the Bill as it stands repudiates the profession of its author. It is not merely a Bill to protect zamindaris. It enables any proprietor, who is defined as one who has an interest in land, and therefore any householder, to hand over his property to the Court of Wards and so defeat his mortgagee. Against that I protest. As matter stands, this is the largest cheque that the Government has ever drawn upon the faith and the goodwill of the people at large. When it asks them to invest it with absolute and unquestioned authority to do things which are things that should be done by a competent civil court, it draws a blank cheque upon their credulity. If the honourable gentleman will supply us with the information for which I am asking—I am not asking for too much—, information of any sort that will tend to show that there are good and grave reasons why the Government should have these powers and why they should be taken away from the civil courts, I, for my part, will withdraw my opposition to this particular clause.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—In supporting this amendment, I have to make a few observations. I certainly think with Mr. Justice Benson that the powers which the Government now proposes to take to itself are immense powers, but I do not think with the learned judge that these powers will always be exercised by Government correctly. There are numerous cases in which the executive went wrong and had to be corrected by judicial tribunals. The Hon'ble Mr. Eardley Norton spoke in general terms on this aspect of the subject, but I will quote one case among many. I will quote to the Council the latest case of Fischer *versus* the Secretary of State for India, which was decided a couple of years ago by the Privy Council. Mr. Fischer having secured a permanent lease of one of the villages attached to the Sivaganga zamindari, obtained, in the ordinary course, an order from the Collector of Madura for the separate registration of the particular village and the apportionment of the peshkash to be paid by that village. The Local Government intervened and issued an order directing the Collector to cancel his order. When the matter went up before the Privy Council on appeal, their Lordships found that the action of the Madras Government was *ultra vires*. If the Council would allow me, I would read an extract from the judgment of their Lordships of the Privy Council published in the Indian Law Reports, 22 Madras, page 270. Their Lordships say "but the rights of parties depended on the validity of the Government order and on nothing else. It was the beginning and the end of the controversy. Mr. Cohen very properly and very wisely admitted that he could not justify the action of the Government. This frank admission relieves their Lordships from the duty of commenting upon what took place in terms which otherwise the occasion would require. At the same time their Lordships cannot help observing that it would have been better if the Government had been wise in time and had recalled the order without suit, instead of trying to shelter themselves on technical grounds and under a dilatory plea. There was no room for defence on the merits. Therefore the whole argument of the learned counsel for the respondent was directed to show (1) that the suit was demurrable in consequence of the provisions of the Specific Relief Act No. I of 1877, and (2) that even if the suit were not demurrable it would be defective for want of parties." Their Lordships wind up by saying "that the Government have been wrong throughout and the suit is properly framed and not open to objection under the Specific Relief Act". This is one of the several instances in which an act of the Executive Government has been scrutinized by a judicial tribunal, and the judicial tribunal has arrived at the conclusion that these acts of the Government were *ultra vires* and could not be maintained. I quote this in connection with the opinion of the learned judge of the High Court, the Hon'ble Mr. Justice Benson, already quoted by me.

2 P.M.

His Excellency the President:—May I interrupt the Honourable Member and inquire whether it is only the revenue decisions that are reversed and whether decisions of civil courts are never reversed on appeal? All this seems to be irrelevant.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—In regard to decisions of civil courts, we have first appeals, second appeals and appeals to the Privy Council. But with regard to the executive acts of Government, there is nothing like an open inquiry based upon evidence and judicial adjudication. There is, I submit with all deference to Your Excellency's observations, a difference between the decisions of judicial tribunals and the acts of the Executive Government. The Executive Government has not got all the safeguards and formalities of procedure with which the proceedings of civil courts are hedged. The very fact that the civil courts are governed by certain rules of procedure, namely, that the inquiry is to be open, that evidence is to be taken and the adjudication arrived at on hearing counsel on both sides, shows that the conclusion arrived at by judicial tribunals is likely to be more sound. I would ask the attention of the Council to clause (*c*). That clause refers to persons who are lunatics and are of unsound mind. In their case the Bill considers that the intervention of civil courts is necessary. If in such a patent and obvious matter as lunacy, a resort to a civil court is necessary, *a fortiori* it is necessary in the case of such a debatable and controversial matter as the physical or mental defect or infirmity of a person which incapacitates him from managing his property. I would once more invite the attention of the Council to what the Hon'ble Mr. Jambulingam Mudaliyar said as to what had taken place in the Select Committee. The members of

the Select Committee, I am told, were equally divided on this point. But for the accidental circumstance that I was unavoidably prevented from attending the particular meeting of the Select Committee, this amendment which is now laid before the Council would have been carried by the Select Committee itself.

The Hon'ble Mr. G. S. FORBES :—May I interrupt the Honourable Member. This amendment was never voted upon by the Select Committee. The amendment voted upon by the Select Committee was exactly the converse of this. The Honourable Member was not present at the meeting of the Select Committee.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—I think I am right in saying that the principle of this amendment was discussed and lost by the casting vote of the chairman.

The Hon'ble Mr. G. S. FORBES :—Not at all: the proposal voted on was the converse of this.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—The principle of resorting to a civil court either in the first instance or later was a principle which was discussed in the Select Committee and in respect of which opinion was divided. In this connection I would refer to the minute of dissent recorded by the Hon'ble the Maharaja of Bobbili who sits here as the representative of the landed aristocracy, the particular class of gentlemen who will be mostly affected by the provisions of the present Bill. He says: "I consider it my duty to state here that civil courts not below the grade of the district court should have jurisdiction over the inquiries which Collectors are empowered to hold under section 12 or 13. Subordinate officers of the revenue department, upon whose information the Collector will have to depend, cannot be always credited with fair motives, and it will be a wholesome check if the preliminary inquiries are made subject to appeal to civil courts. As the Bill now stands, clause (*d*) of section 9, coupled with section 49, is productive of much misapprehension or possibly mischief."

I endorse every word contained in that minute, and it seems to me that resort to civil courts in a matter of greater complexity than the question of lunacy and unsoundness of mind is called for by the circumstances of the case. With these observations I would commend the amendment to the favourable consideration of the Council.

The Hon'ble the MAHARAJA of BOBBILI :—Since writing that minute I have withdrawn my views of that subject.

The Hon'ble K. PERRAJU PANTULU Garu :—Your Excellency, I wish to say a few words in support of this amendment. Under the existing law the grounds which incapacitate proprietors from managing their property are—minority, sex, or natural infirmity.

Section 5 of the Regulation now sought to be repealed uses the expression "lunacy—idiotism or other natural infirmity".

In all cases section 7 of the Regulation gives the proprietors concerned full liberty to question in the civil courts the grounds on which the Collectors' reports resulting in the decision of the Court of Wards are based.

Clauses (*a*) and (*b*) of the Bill cover cases of minority and sex. Whatever the presumption may be as to the capacity for management of property in cases falling under clause (*b*), there will no doubt be exceptions, but these may well be left to the discretion of the Executive.

Clause (*c*) covers cases of unsound mind, such as lunacy or idiotism, and the condition precedent to the assumption of management by the Court of Wards in such cases is the adjudication of the civil court that the proprietor is of unsound mind and incapable of managing his property.

Clause (*d*) is a sweeping clause, and, buttressed by section 49, sets at naught the safeguard that has been existing since the enactment of Regulation V of 1804. There is no reason why the safeguard of the decision of an independent tribunal provided for in cases covered by clause (*c*) should not be extended to cases falling under clause (*d*). The assurance afforded by clauses (*a*), (*b*) and (*c*) is rendered nugatory when clause (*d*) gives the Executive Government uncontrolled power to deprive any proprietor of his right to manage his property whenever it considers that he has any physical or mental defect or infirmity which in its opinion renders him incapable to manage his property.

It is not said that the hitherto-existing safeguard in favour of the proprietors has ever been abused or that the administration has been put to any inconvenience. In fact the Hon'ble Mr. Winterbotham warned us that "Government is not undertaking the legislation to meet any instant emergency or pressing need of the moment". The framers of Regulation V of 1804 thought fit to empower the proprietors affected by the Collectors' reports and proceedings to submit them to the scrutiny of civil courts. The Hon'ble Mr. Winterbotham in introducing the Bill said "It speaks well for the drafting of that regulation that after the lapse of ninety-seven years it still remains, without radical change, the law which purports to declare the powers of the Court of Wards and to define the rules under which those powers are to be exercised."

What a vast difference there is between the constitution and *personnel* of the civil courts of that day and those of the present day. It is difficult to see what justification there is for those responsible for the drafting of the Bill to set at naught the safeguard of inquiry by a judicial tribunal and deprive the persons sought to be governed by the present legislation of a right which has been existing for nearly a century.

The well-known canon of jurisprudence is that the principles of administrative law should be laid down in the statute in precise terms though the regulation of details by statutory rules may be left to the Executive. If the Bill be passed, what will be the law as to the disqualification of a proprietor not a minor or female or adjudged to be of unsound mind? It will be nothing more or less than the discretion of the Executive.

No less than Sir Courtenay Ilbert says that the typical Englishman has "an instinctive distrust of official discretion". If that be so in an advanced country like England, how can it be otherwise in this country where those who are responsible for the action of the Court of Wards are by reason of their race distinction and social and official position unable to enter into the sentiments and feelings of the native proprietors. The apprehension of the public that their opinion will be moulded, if not altogether led, by the representations of the subordinate officials is not unfounded. In spite of their honesty of purpose they may not easily get out of the prejudices of their surroundings. I do not mean to cast any reflections upon their capacity and devotion to duty, but one cannot help thinking that the nature of their work and the manifold duties they have to perform hardly enable them to exercise a thorough judicial mind in the matter. Be this so or not, what harm is there if the proprietors are given the right of having the proceedings tested by judicial tribunals when they are convinced that they are not legal and just?

It may be that Government will exercise the powers reserved to itself under clause (*d*) very sparingly, but the fact remains that the proprietors stand in eternal dread of the subordinate officials who have anything to do in the matter, to an extent almost demoralizing and prejudicial to right government. The proprietors cannot but feel that they are reduced to a humiliating and servile position which it will never be the object of Government to bring about. So recently as in 1880, Sir Henry Maine said: "I believe the regimé of discretion to be thoroughly unpopular with the natives of India. I have never conversed with an educated native of India who did not seem to abhor it, but I do not rely so much on this as on the evidence of a similar feeling in other and much more numerous classes."

Even under the existing law it is the executive that largely leads and controls and there is no reason why it should endeavour to still further circumscribe the "reign of law" and enlarge "the regimé of discretion". This tendency has of late been deplorably unmistakable in provincial legislation.

The alteration of the law in this respect is positively distasteful to the persons for whose benefit it is avowedly intended. The public are opposed to it, and the feeling of the entire press is against it. Never has there been a measure against which feeling is so unanimous as the one now before the Council.

It is not too much to expect that our statute book should be a register that marks out the progress of the community under British rule. It is a pity that after a century of enlightened British rule in the presidency, endeavour should now be made to revert to unfettered discretionary administration as in the case of backward communities. There may be a few hard cases here and there. They will not, however,

justify the enactment of a law affecting the entire community and implanting a feeling of insecurity in the minds of all. The proprietor cannot but be conscious that his credit is impaired and that he cannot borrow fearlessly even for legitimate purposes. No creditor will lend him money as freely as before, because symptoms of incapacity may at any time be developed in the proprietor so as to entail all the consequences detailed in the Bill.

I hope that Honourable Members will vote for the amendment which only seeks to qualify the discretionary power with which the Executive Government is invested by an adjudication of the civil court.

The Hon'ble G. Srinivasa Rao Avargal :—If I rise to support this amendment, it is because the principle involved in this is at the bottom of very many of the other amendments which are to follow hereafter. I really feel surprised why on such a small question as this, we are differing so very much, unless it be in the very breeding that we have had, viz., that those who are versed in law think that the jurisdiction of the civil courts ought not to be ousted, while others do not think so. Except it be that, I cannot understand why the jurisdiction of civil courts should be ousted in a matter like this. There are four provisions under section 9. In clause (*b*) discretion is given to Government and nobody opposes it and this will show all that we believe in the wisdom of Government in all transactions of this nature. I for one feel certain that the Government will not go amiss. In fact, I feel for the Government and say why should the Government take unnecessary powers and be abused for having those powers. Members of Government will know the responsibility which they undertake under this Act. Why should they take up large responsibilities when there is a way to get out of it—when they can as well give the relief which it is necessary to give to landholders and others who will come under this Bill, when it is passed into law, by going to civil tribunals? I cannot really understand why there should be any opposition from any quarter. It was asked by Your Excellency whether the judgments of the civil courts are not upset or reversed on appeal. They are. We can at once understand the difference between civil tribunals and the Executive Government. So far as the civil tribunals are concerned, they are hedged in, in so many ways with rules of procedure, with the manner in which evidence is to be taken and the manner in which the whole thing is to be done openly. If, with all these safeguards, there is a chance of these decisions being upset or reversed on appeal, how much more should it be so in the case of executive powers exercised by Government? Let me not be understood as saying that I have no faith in the Executive Government. This Government has done so much, and it is my solicitude for the good government of this country that makes me support this amendment and say that it is unnecessary for the Government to take these powers. While in the case of clause (*c*) the matter is left to be adjudicated upon by a civil tribunal, I really do not see why we should not do the same thing with regard to clause (*d*). What delay would be caused and what obstacles it would throw in the way of the ward being taken under protection, I cannot see. I will ask the Honourable Members to consider why we should follow one procedure in the case of clause (*c*) and another in the case of clause (*d*). If there should even be any little delay, it is not a matter of any great consequence. Ultimately the estate will come under the Government and the ward will be benefited. I would request the Honourable Members to consider if the ousting of the jurisdiction of the civil courts is desirable. If it is not desirable, I beg that this amendment may be carried by all of us.

2-20 p.m. At this stage the Council adjourned and reassembled at 3 p.m.

The Hon'ble the Advocate-General :—I just wish to make one or two answers to some of the objections which have been so ably urged. In the first place, I say that it is a false criterion to take extreme cases in dealing with matters of this sort, and to puzzle our minds by trying to imagine what possible abuses may arise from a clause of this description. Again I submit it is a wrong way of looking at it, to regard this question as if it were a proceeding by Government against the man whose estate is taken over; whereas this proceeding of taking over an estate under clause (*d*) of section 9 is a proceeding which is taken in the interests of the ward himself. It is only when he has shown by the way he is managing his property that he is unfit to manage it, that the property will be taken over, then in his own interest it is as well for him that the property should be taken over. Further, I would submit that

this provision shows no distrust whatever of the civil courts. That objection is entirely misplaced. With regard to the people who are declared disqualified under clause (c) which refers to lunatics, there is a well-defined law of lunacy for the courts to apply; but it is otherwise with regard to the question whether, having regard to the whole circumstances of the case, a particular man is incapable of managing his own property. In foreign countries, to which reference has been made, there is a well-known law with regard to prodigals. There is no such law in this country and there is no such law in England; it is not proposed to introduce such a law and no such law can be introduced by any side wind. This provision in clause (d) is only intended for very exceptional cases, and in such exceptional cases it is desirable that the discretion should be exercised rather by the Local Government than by the civil court. As I have said before on another occasion, if you put upon the Local Government the obligation to go to a civil court and to embark on endless litigation before a property can be taken over, that is a responsibility which the Government will not be likely to face and the Government will not be likely to apply that section in the few cases in which it would be desirable that it should be applied. In other words, that section is likely to remain a dead letter. Further, it is said that the declaration which the Government is now required to make under section 17 that it is acting in the public interests imports nothing at all. That is a complete fallacy. As I understand it, it is a declaration made by a responsible Government that it is in the public interests that a particular estate should be preserved. It is stated more explicitly in section 44, and the meaning of both the sections is the same, namely, that the Government is only to interfere in furtherance of the general purposes of this Act, that is to say, for the preservation of ancient estates and the ancient aristocracy whose preservation is considered to be desirable. These are the main objections which I have to urge in answer to the contentions which have been raised to-day. I would further remark that the amendment, as it stands, would introduce a most inconvenient and complicated state of things. For, first of all, we are to have the adjudication of the civil court, and as if this were not enough there is, under this amendment, to be a further inquiry by the Local Government, and then a declaration by the Local Government that it is expedient to take over the property in the public interests. What I submit about this clause is that it is only intended to exercise it rarely in exceptional cases; and it is a matter of policy and convenience that this power which has to be so rarely exercised should be exercised by the Local Government rather than by a civil court, and it is idle to frighten ourselves with the possibilities of abuse which had been suggested. Honourable Members are aware that, at the present time, it is open to Government to imprison any of us under an unrepealed Regulation and there is no legal redress whatever. That is a power which has been in existence, I do not know for how many years, without any one being any the worse for it. Therefore, I submit it is a false criterion to consider what possible abuses a clause of this sort is likely to give rise to, without considering whether there is the least likelihood of these abuses occurring. Under this clause, there can, I think, be no such likelihood, because the Government could derive no benefit whatever nor the officials of Government by taking over an estate, but only a great deal of anxiety, worry and trouble. It cannot be supposed that Government will take over an estate under clause (d) unless it is impressed with the grave necessity for doing so in the public interests, and therefore I cannot help thinking that the opposition to this clause is not well founded.

The Hon'ble Mr. A. J. Yorke:—In supporting this amendment, I need not reiterate the arguments already put forward, but I would like to refer to the undesirability of the Government taking on its shoulders the heavy responsibility which action under this section will involve. It seems to me that an alien Government has to be particularly careful that its actions are not misinterpreted, and therefore I consider that this Government should rather welcome than refuse to allow appeal to civil courts.

The Hon'ble Mr. G. L. Acworth:—Your Excellency, I am neither a lawyer nor a merchant, but I rise to oppose this amendment. I can very well conceive of cases in which civil courts would really not deal sufficiently with the matter. I will quote one case which did not occur in this country, but which will probably bring a smile on the lips of the Honourable Members of this Council, though I quite think it a case in point. It created such a sensation at the time that I think I am justified in

quoting it. I refer to a person called "the Jubilee Plunger." Here was a man who suddenly came into a great inheritance. He squandered that inheritance, I think, in two years and to my mind that man had certainly some defect in intellect which disabled him from handling a great inheritance; but I am quite certain that if that case had been brought before the courts in England and by those who were to come after him—if there had been any such—there would not have been a single court that would have adjudged that man of unsound mind, and yet undoubtedly he was of unsound mind. I will ask the Honourable Council to consider, for one moment, the hardship on the heirs and successors of an ancient zamindari when a member, perhaps only eighteen years of age, comes into his inheritance and proceeds to squander that inheritance to the great detriment of his heirs. Can you imagine a greater hardship on those heirs than that they should find themselves penniless and destitute at the death of the zamindar? The old name will have gone and there will be nothing to support the family. For this reason, Your Excellency, I oppose this amendment.

The Hon'ble Mr. H. M. WINTERBOTHAM:—The first remark that I have to make is on the allegation of the Hon'ble Mr. Jambulingam Mudaliyar that he has never, in the whole course of his official career, met with an instance in which the opposition to a measure was so unanimous as it is to clause (*d*) of section 9. I wish to draw his attention to the memorial presented on behalf of the Madras Landholders' Association by its president, the Raja of Venkatagiri. So far from disapproving of section 9, clause (*d*), the Landholders' Association, representing the class chiefly, if not solely, affected by this measure, desire "the language of section 9, clause (*d*), to be more expressive and comprehensive, so as to indicate that culpable lavishness and extravagance will be held as probative of mental defect unfitting a proprietor for the management of the estate". So much for the statement that public opinion is unanimous against this provision. There is another thing which, if it does not strike this meeting, will certainly strike one-half the population of all civilised society, and that is the fact that the Honourable Members who propose this amendment are perfectly content that in respect of women the Government should be invested with the discretion to declare them to be incapable of managing their property. The members of the fair sex they are willing to deliver over to the tender mercies of Government, and it is only as regards male proprietors that they feel any concern whatever lest the Government should abuse its powers. Honourable Members who have spoken in support of this amendment have travelled over half the field covered by the Act. They have got up to section 24. I hardly know where I am to stop in my comments on what has fallen from them. The Honourable Member who represents the Madras municipality quoted the Salem case as a single instance of the abuse of the unrestrained power of the Executive. If my recollection is correct, a number of rioters were convicted by the criminal courts and were sentenced to transportation to various terms; and the Executive, in the exercise of the prerogative of mercy, brought these men back and set them at liberty.

The Hon'ble Mr. EARDLEY NORTON:—Will the honourable gentleman allow me to explain? My point is that the Government changed the ordinary criminal tribunals of Salem for purposes of conviction.

The Hon'ble Mr. H. M. WINTERBOTHAM:—If that is so, that is absolutely out of my cognisance, and I cannot take the statement as a fact till I know that it is authentic. One other Honourable Member remarked, and it is perfectly true, that opinion on this matter will depend upon what our profession is. Lawyers, he said in effect, would be opposed to anything that restricted the practice of the law. Gentlemen, it is rather a dangerous subject on which I am embarking. I yield to none in my admiration of the legal profession; but I will venture to remind you of Dean Swift's description of the lawyers, with which the use of Gulliver's Travels as a text-book has made us all familiar. The lawyers, says Gulliver, are a society of men bred from their youth in the art of proving by words multiplied for the purpose that white is black and black is white according as they are paid. I have myself sat on the bench of more than one district court, and have felt my convictions ebbing and flowing, and oozing out at my finger's ends, as I listened to the eloquent and plausible arguments of the advocates first on one side, then on the other. But even when you have provided that counsel may address the court, you can't provide that the judge shall keep awake. There is just as much likelihood that arguments will be considered if they are reduced to writing and perused at the desk. Joking apart, I submit that for the limited and

special purposes of this Act the Court of Wards and the Government are about as good a managing body as you can get, and that you need not feel the least alarm that Government will be led by the nose, or will be bamboozled by false information, or will abuse the powers confided to it.

The Court of Wards and the Government may make mistakes, but so may any other tribunal in which you wish to vest the final power of decision. The decisions of the august Privy Council itself are not immune from error. Our District and High Courts are as independent as any in the world,—are eminently conspicuous for their impartiality and desire to elicit the truth and to maintain justice, but there is no need to set up the judicial machine as a sort of fetish to be worshipped, or to constitute it the supreme arbiter on matters which are matters of opinion concerning public policy and affairs of State. The civil courts are no doubt the best possible institution for the prevention of strife and the settlement of disputes between man and man; but in respect of the management of the estates of disqualified proprietors, the tribunal which our Bill sets up is, I venture to think, equally disinterested, equally incorruptible, equally competent to form a sound opinion, equally open to correction if it does wrong. No doubt it is objected that the Government does not hold open court or hear counsel. But the things which the Government is called upon to do under this Act are published to the world. There is nothing secret that shall not be known, nothing hid that shall not be revealed. I have already explained,—when the Bill was introduced,—that the power conferred by section 9 (*d*) is one of the class of powers,—like the command of the sea, or the power of the strong man armed,—which it is devoutly hoped there may never be occasion to exercise, but the possession of which, as a safeguard, is salutary and beneficial. The existence of the power is calculated to prevent excesses on the part of proprietors possessing a life-interest in those ancient estates which it is the policy of Government to preserve,—and it permits of intervention before it is too late. The exercise of the power will certainly never take place until the incapacity and mal-administration of the proprietor have become a matter of notoriety amounting to a public scandal. If and when Government is satisfied that the public interests require that the Court of Wards should assume the management, the determination to interfere should proceed immediately from the authority of the Government. At what point the folly and mal-administration of a proprietor shall justify Government to step in and declare him mentally incapacitated is entirely a matter of opinion regarding which the Government cannot be expected to subordinate its opinion to that of the District Judge. It has been explained why it is desirable that Government should possess the power. The power has been restricted by section 17 of the Bill, so that no one can reasonably apprehend that it can be used except in the case of a few of our great zamindaris. There are ample checks upon the Local Government both within and without. Within there are more heads than one, all of them (and I proudly affirm it) equally incorruptible, equally disinterested, equally bent on doing right. Outside we have the powerful checks of public opinion, a free press, the Government of India, the Secretary of State, the Crown and the Parliament. There is no more fear of the power being abused than there is fear that the power of Government under Regulation II of 1819 should be abused by placing all Honourable Members who oppose this Bill under confinement until the Bill has been safely passed. Government is firmly opposed to the amendment and must press that it should be rejected.

3-20 P.M.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—If there is no other Honourable Member to speak on the amendment, I beg to reply to the few observations that I have been made by the Honourable the Advocate-General and the Honourable Mover of the Bill. I quite agree with the statement made by the Advocate-General that it is not a proceeding by Government against any man to take over his property, and the intention and the scope of the Bill and the way in which it will work are entirely in the interests of the person to save him from ruin and to save his property. That being undoubtedly the correct view, the Bill does not, by any means, answer the difficulties which have been suggested with reference to clause (*d*). It is by no means asserted by any one, and if any body suggests it I shall be the last to concede to that view, that the Government has any particular interest to take over these properties. I quite see that the administration of these estates in these cases would involve a large amount of trouble and extra labour. But the whole point is missed when an answer is not given to the difficulty pointed out that the Government in taking over these

estates will be dependent entirely upon reports communicated to it from other sources. So far as the higher executive functionaries are concerned, we are prepared to have the utmost and the most unbounded confidence. But we are not prepared to do the same in regard to the subordinate officers of Government, on whose reports much of the action of the higher executive functionaries and ultimately of Government will depend. Whatever error or mistake may be committed at the lowest rung of the ladder, it will contaminate the whole, and whatever may be the purest and the noblest intentions of the officers in the highest quarters, the mistakes committed in the lower rank will in the end be irremediable. It is in that view the matter has been placed before the Council and not with any idea that the proceeding taken under the Act is taken by the Government against any particular person with inimical or ulterior idea towards that man. One objection raised was while under clause (*c*) a civil court adjudges a person to be of unsound mind and to be an idiot, there is no reason why a similar provision should not be enacted for clause (*d*). The answer to that objection is there is already an enactment, the Lunacy Act, which makes adequate provision for getting a proper adjudication under clause (*c*). But since there is no enactment to meet cases of persons falling under clause (*d*) and there is no prodigal law in this country or in England and no possibility of getting such a law by a side wind in this country, therefore clause (*d*) could not be treated in the same way as clause (*c*). But all that my amendment, coupled with the consequent amendments at the bottom of the page, requires is just to adapt the existing Lunacy Act and apply it to the purposes of clause (*d*) by simply adding two paragraphs to it, the effect of which will be to apply the provisions of the Lunacy Act to these cases and to empower the civil courts to adjudge cases in which the mental capacity might not reach the stage of lunacy but only a degree lower than that, which still incapacitates him from managing his property. The extra trouble involved in making this alteration is very little and I venture to suggest that the addition of the two paragraphs that I suggest would entirely cover the cases referred to in clause (*d*) and invest the civil courts with all the identical powers which they now have under the Lunacy Act. Then the other difficulty suggested is that there will be endless difficulty if adjudication is to take place before a person could be incapacitated under clause (*d*). That point has been answered in the speech that I made in moving this amendment. I have pointed out that under sections 10 to 14, there are ample provisions already possessed by Government and the Court of Wards to take possession of the property and to make orders as to custody and residence of persons without the preliminary necessity of litigation. How would the Court act in the case of minors? Clause (*a*) refers to minors. The Court could, under sections 10 to 14, make inquiries through the Collector and other responsible officers and take charge of the property, depriving other people of the possession of such property; and it makes orders under section 14 with reference to the residence and the superintendence of the person and the property of the minor. After all, it might turn out that he is not a minor, and that he is able to establish that he is not a minor and that he should not be deprived of the possession of his property nor should his person be taken charge of. That is now allowed, and a minor's property is taken charge of on the ground that he is a minor. The Government is able to do it under the present law without hindrance, even though he may be able to establish subsequently that he is not a minor. Again, how is the Court of Wards going to act in regard to cases arising under clause (*c*). The Court or the Government does not wait till the adjudication is obtained, but under sections 10 to 14 the Government through the Court of Wards and other executive officers proceeds at once, when it receives a reliable report, to issue orders to take charge of the person and the property of a particular individual, even though the subsequent adjudication may be that he is not a lunatic or an idiot, with the result that the property is released. If the adjudication is otherwise, the management of the property is continued. That the Government will not take the responsibility of starting the litigation and of thus seeing the property squandered is a futile objection. Another objection suggested is that this amendment would introduce a complicated and confused state of things. It is for the purpose of avoiding confusion and complication and of making as few alterations as possible in the Bill as amended by the Select Committee that I have drafted the amendment in the form I have done. Considering the provisions contained in sections 13 and 17, I can hardly see the imaginary confusion that is supposed to be introduced by this amendment. If fortunately I am allowed to move my other amendments, it will be

seen that the alterations that I have to make in the Bill are as few, simple and intelligible as I could make them. Then a reference has been made to the old obsolete Regulation, and time after time it has been suggested to us and we have been informed that any one of us can be imprisoned without any cause. The object of that Regulation is entirely different. If you only bestow attention on the purpose and the object of the Regulation, it will be seen that it was enacted for the purpose of putting a check on seditious and bad characters who would bring trouble to Government, and whom it would not be politic to expose to public gaze at a public inquiry. We can easily understand the purview of that Regulation. It is fortunate for us that we in this presidency have not had any instance when that Act was put into force. Absolutely there is no analogy between that Regulation which has been enacted for a State and political purpose, and this Act which refers entirely to the private affairs of private individuals and which, in the generosity and benevolence of Government, it proposes to enact for saving some few estates so that some of the ancient aristocratic families might be saved. There is absolutely no comparison between the two. The measures taken under the present Bill can very well undergo the scrutiny of a public court, while the same procedure cannot be adopted with due regard to the safety of Government with regard to persons affected by the old Regulation. With regard to the observations made by the Honourable Mover of the Bill wherein he quoted the first sub-paragraph of paragraph 4 of the memorial of the Landholders' Association, he does not seem to have noticed the sub-paragraph (2). It proceeds to say—in cases coming under clauses (*a*) and (*d*) of section 8, the inquiry must be after notice to the proprietress or proprietor concerned, and the party concerned be entitled to a copy of the report made by the Collector or the Court of Wards and to question the accuracy of the report. In spite of my exertion to get at least that amount of concession, which is mentioned here, I was defeated in the Select Committee. We have no provision whereby we can get a copy of the proceedings before the Collector nor can we get a copy of the evidence against the proprietor. There is no provision for getting a copy of the report made either by the Collector or the Court of Wards. It is needless to say that the possibility of making a criticism about the accuracy of the report dwindles almost to nothing. Under these circumstances, the memorial of the Landholders' Association could not be considered, so far as this clause is concerned, as containing an unqualified endorsement of the views of the Government, but is subject to the qualification mentioned in the subsequent paragraph. What they require is that they should be entitled to a copy of the report sent by the Collector and the Court of Wards and should be given the opportunity to criticise the report. What they have claimed I have put in another form. If my honourable friend will allow me to say, if all the functions that we, who have the misfortune to belong to the legal profession, have to perform is to prove that white is black and black is white, I for my part should be sorry to belong to that profession; but we have a nobler purpose to fulfil, and far from being sorry or feeling belittled at such references to my profession, I feel proud in the consciousness that I am a member of one of the most honourable and learned of profession by common consent of all civilized countries. We stand up for the cause of justice and to uphold what is right. It is unnecessary for me to say anything more because I fully believe that my honourable friend quoted the definition more in the way of humour to relieve the monotonous proceedings of this Council than with any other intention. In regard to that portion of my honourable friend's remark having reference to the absolute competency, honesty of purpose and other great qualities which are claimed in behalf of the Court of Wards, there is absolutely no one who could say a word against it. We all give in. The frequent repetition of it to our face only indicates that the Honourable Member has some kind of suspicion about our feeling. If there is any such suspicion lurking in his mind, I can assure him that there is no ground for it. Granting all that, I submit that the arguments that I have advanced for getting the adjudication of civil courts, at an initial stage, have not been met either by the Advocate-General or the Honourable Mover of the Bill.

3-40 P.M.

His Excellency the PRESIDENT in bringing the debate to a conclusion said:—The Honourable Member who just sat down has, to a great extent, revived the discussion and repeated a good deal of what he said before; and as I am not willing to leave him altogether unanswered and as he might not think it altogether fair, I must detain you for a few minutes. But I can promise you that I shall not be so lengthy as some of the previous speakers. The Honourable Member said that the point which

we had missed was that the Collector of the district, or rather the Government in declaring a proprietor disqualified, would act on information which would come through contaminated channels and that was the reason why he did not like to trust the power to the Executive Government. Now I should like to ask him in what respect would channels of information differ if the matter was adjudged by the civil courts. The Honourable Member and his friends declare that they are in favour of the principle embodied in the Bill, that for the sake of preserving ancient families and ancient estates from dismemberment and eventual destruction, the Government should take over their management. But they come here and move amendments which render the Bill absolutely nugatory in that respect, and although they do not object to the principles, as they say, they introduce amendments which would absolutely destroy the machinery of the Bill for carrying out those principles. Let us see for a moment what the effect would be of the amendment of the Honourable Member. Government cannot declare a proprietor incapable until the Collector has held an open inquiry and his opinion has been accepted by the unbiassed verdict of four members of the Court. Now let us see what would happen if the matter were brought before a civil court? I presume that the plaintiff would be the Collector and his only motive for bringing the suit would be a sense of duty, for, as Honourable Members have already admitted, the effect of gaining the suit would be only to add to his worries, troubles and responsibilities. Whom would he have on his side? Nobody, except possibly the next heir to the property. Whom would he have against him? All the harpy crew of dishonest officials, whose existence Honourable Members have been too readily admitting, usurers and money-lenders and sycophants, whose sole object and interest would be to prevent the estate from being managed by the Government and to keep it in the hands and management of the proprietor. And the proprietor would be on whose side? He would be against the Collector, because he would be presumably ignorant of his own incompetency and unwilling to admit it. Therefore, the whole weight of the evidence would be on one side—against the Collector. Supposing the District Judge were able to see through all these and able to sift the evidence and make a right decision, what would his decision be? The decision would be that of one man, a man, I may add, cast in precisely the same mould as the executive officers of Government, who, you say, are not to be trusted in these matters. Well, do you think the Collector, if he had a sense of duty, would rest content with that decision? He would naturally appeal, and the matter would be tried over again and there would probably be a reversal of the judge's opinion. And again it is possible—it has in fact actually happened in the North-West Provinces—that the case would be reviewed and the original opinion would be restored. That, by the way, answers the question of the Hon'ble Mr. Eardley Norton who said that we are not in a position to know the reasons why the North-West Provinces ousted the jurisdiction of the civil court. He implied that they copied it from us and we are copying it back from them now. The facts of the case are that in the North-West Provinces the civil courts had jurisdiction in these matters till 1873 when they found that it did not work well for this very reason. There was a case precisely like that which I have mentioned; therefore, they ousted the jurisdiction of the civil courts in this particular matter. When the Bill was again revised in 1899, the same objection was made; it was rejected by their Council on the ground that up to 1873 it had not proved satisfactory. Well, the objection then is not so much that there will be a lot of litigation, as that the litigation which will ensue will defeat the object of the Bill by ruining and impoverishing the estate. Honourable Members do not seem to have considered the interests of the proprietor of the estate and of his heirs, and, above all, of his tenants; but they have considered merely the interests of those people whose one aim is to defeat the object of the Bill, that is, to prevent the estate from being managed in such a manner as to avoid its ruination. Perhaps I may refer to one or two points in the Honourable Member's speech which have not been answered. The Honourable Member would have us believe that the agitation against the action of Government was absolutely unanimous and that we are standing quite alone in the face of the whole public opinion in our endeavour to grasp most unusual and arbitrary powers. The Honourable Member's argument was based on the assumption—the illogical assumption—that because a few people shout out, therefore the rest of the world is dumb and unable to speak. I am perfectly well aware that there has been a great deal of clamour in the newspapers; but I am not convinced on that account that the whole of public opinion, that the whole of the intelligent and thinking men, endorsed that view. It is perfectly easy to raise a clamour, and we could

have raised a similar and a louder clamour if we had wished to do so. We are not unaware of the means by which an agitation of that kind can be got up on any subject. Therefore, the Honourable Member has not convinced me at all that the denunciations of the newspapers by any means connote any popular feeling against the Bill. The popular interest in the Bill is evidenced by the large crowd of people assembled here to hear our deliberations! The Honourable Member said that the Select Committee was equally divided on this particular amendment of his. As a matter of fact, I learn that this particular amendment was not discussed in the Select Committee. The Honourable Member, no doubt, confused this amendment with another amendment which was exactly the converse of this principle. Well, I go on to the Hon'ble Mr. Eardley Norton. He says that the only reason brought forward for ousting the jurisdiction of the civil courts in this matter was the delay which would ensue, and that it was easy to dispose of that objection. He said that if we would only give him the reasons why we would not have civil courts, he was perfectly ready to change his opinion. I therefore take this opportunity of assuring him that the delay is by no means the most important of the reasons why we object to this amendment. There is not only the delay but the expense, which falling on the estate in question, will render absolutely nugatory the intention of the Bill, which you admit to be sound and benevolent, and there is also the utter futility of litigation in such matters. And another reason which I will give him is that a matter of this kind is not one which, on the face of it, can be decided by hard and fast principles of law. In its very essence, the question is one of political discretion. There are no laws in any country, as far as I know, on which a matter of this kind can be decided. The matter is, in essence, one which must rest with the discretion of the Executive Government finally. The Hon'ble Mr. Eardley Norton was very sarcastic about the phrase "in the public interests" for which I myself am responsible. He said that all legislation must necessarily be "in the public interests" and that, therefore, the phrase was absolutely meaningless. That is what I took him to mean. I hope the Honourable Members were not deceived by this specious and fallacious logic. Although the laws are enacted in the public interests, if those laws are not used and applied at the right time and on the right occasion, they cease to be in the public interests, and all that we declare in this Bill is that the provisions of the section will not be used except on the right occasion. I am afraid that my recollection does not serve me with regard to any of the other numerous arguments that have been brought forward by the Honourable Members opposite, but I hope that I have in some measure answered their objections and replied to the points which they have raised, and that they are disposed to believe that we are not so arbitrary and unreasonably disposed as they seem inclined to think.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—With Your Excellency's permission, I wish to explain myself with regard to the division in the Select Committee.

His Excellency the President:—Yes, certainly.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—The proposition on which there was a division was whether the declaration made by Government can be brought up for review before civil courts. On that point the committee was divided equally. I quite agree that according to the amendment which I have proposed there would be a prior adjudication, and the thing was not put in that form before the committee. I have adopted this form as being less derogatory to the powers of Government, because if there is a prior adjudication, there would not be that inconvenience of having the final declaration by Government being questioned in a civil court. I considered that, so long as the Select Committee was divided equally on that extreme proposition of getting the final declaration of Government opened before the civil court and argued, they would be more favourable to the much milder form of the amendment, now before the Council, of a prior adjudication as in cases of lunacy.

The Hon'ble Mr. G. S. Forbes:—The proposal was only to render the declaration of Government liable to be reviewed, not to place the initial proceedings in the hands of the civil court.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—Yes.

The Hon'ble Mr. G. S. Forbes:—That is a different thing altogether.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—That was a more severe proposition than the amendment that I have now moved. The effect of my amendment is that once a final declaration is made, it shall be final and it shall not be opened before a civil court.

The amendment was put and lost—six voting for and fourteen against it.

The Hon'ble Mr. Eardley Norton demanded under rule 21 a division by names which was taken with the following result:—

4 P.M.

For	*Against*
The Hon'ble Mr. A. J. Yorke.	The Hon'ble Mr. H. M. Winterbotham.
" " " Eardley Norton.	" " " J. Thomson.
" " C. Jambulingam Mudaliyar Avargal.	" " " G. L. Acworth.
" " P. Ratnasabhapati Pillai Avargal.	" " " J. E. P. Wallis, Advocate-General.
" " K. Perraju Pantulu Garu.	" " the Maharaja of Bobbili.
" " G. Srinivasa Rao Avargal.	" " Mr. G. S. Forbes.
	" " Lieut.-Col. Sir George Moore.
	" " Mr. H. Bradley.
	" " " A. W. B. Higgens.
	" " " H. A. Sim.
	" " " J. N. Atkinson.
	" " S. Srinivasaraghava Aiyangar Avargal.
	" " Mr. M. Hammick.
	" " " G. H. Stuart.

The Hon'ble C. Jambulingam Mudaliyar Avargal withdrew his next amendment as it was consequential upon his last amendment.

The Hon'ble P. Ratnasabhapati Pillai Avargal and the Hon'ble G. Srinivasa Rao Avargal withdrew their amendments as they were identical with the one just lost.

An amendment which stood in the name of the Hon'ble C. Jambulingam Mudaliyar Avargal to insert the word "otherwise" between "be" and "incapable" in clause (*d*) of section 9 was also withdrawn.

The Hon'ble the MAHARAJA OF BOBBILI:—My Lord, we, the zamindars coming under clause (*d*) of section 9, are, I am sorry to say, placed too much under the thumb of the district subordinate officials, such as deputy tahsildars, revenue inspectors, and so on. I have no fear whatever that the Government would unjustly take possession of an estate. But before the matter comes to the notice of the Collector, there will be a lot of blackmailing by the subordinate officials. As the Government has power under section 16 to make a declaration in the case of a proprietor who is or in its opinion ought to be disqualified to manage his estate, I see no reason why clause (*d*) of section 9 should not be omitted altogether. If the Government still insists on the retention of clause (*d*), I beg to suggest that such declaration should be subject to proof by the certificate of a district surgeon. Then, we shall not be threatened by the subordinate officials for foolish, but temporary, acts to which I am sorry to say we are so much accustomed. I therefore pray for the addition at the end of the clause of the following words: "Subject to proof thereof by the certificate of a district surgeon".

The amendment fell through for want of a seconder.

The Hon'ble the MAHARAJA OF BOBBILI:—My Lord, as the Honourable Member in charge of the Bill said in his speech that the estates which are impartible and which will be hereafter declared to be impartible will be preserved under this section or rather under this Bill, I, with Your Excellency's permission, withdraw my amendment and beg to submit a new amendment, "Provided that the estate of such a person is impartible and will be hereafter declared to be impartible."

The Hon'ble Mr. EARDLEY NORTON:—The honourable gentleman is not in order as he is not proposing the amendment on the agenda but an entirely new amendment of which he has given no notice.

His Excellency the PRESIDENT:—I see the Honourable the Maharaja has not read out the amendment which stands on the paper.

The Hon'ble the MAHARAJA OF BOBBILI :—I withdraw that amendment and I propose a new amendment.

His Excellency the PRESIDENT :—But the Honourable Member has not given notice of this change of amendment. Although permission may be granted for moving it, I see no sufficient reasons for doing so.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—I beg to withdraw the following amendment which is only a consequential one :—

Add to the end of clause (d) the words—

"The district court of the district within which such person may be residing shall be the civil court competent to adjudicate under this clause."

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—I beg to withdraw the following amendment, it being merely consequential :—

To insert the following explanation at the end of the section :—

"*Explanation.*—The civil court referred to in clause (d) shall be a court not below the grade of a district court."

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—I beg to withdraw the following amendment, as the addition of these paragraphs is only consequential on the first amendment being passed :—

After clause (d) add the following paragraphs :—

"For the purpose of making any inquiry under clause (d) the civil court shall have the powers conferred, and proceed in the manner prescribed, by Act XXXV of 1858 with respect to the inquiries directed to be made by the said Act.

"The civil court shall have, with reference to proprietors who have been adjudged to be incapable as aforesaid, the same powers as are conferred on a civil court by section 21 of Act XXXV of 1858 with reference to persons adjudged to be of unsound mind and incapable of managing their affairs."

Sections 9 and 10 were passed by the Council.

SECTION 11.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—Your Excellency, I beg to move the amendment which stands in my name against this section. The section says :—

"All expenses incurred by a Collector, acting under section 10, shall, whether the property is afterwards taken under the superintendence of the Court or not, form a charge upon the property concerned, and shall be recoverable from the owner of such property, or the person whom the Collector shall find to be in possession of such property, as an arrear of land revenue."

My amendment is for the omission of the words "and shall be recoverable from the owner of such property, or the person whom the Collector shall find to be in possession of such property, as an arrear of land revenue."

The effect of the amendment will be that any expenditure incurred by Government, whether an estate is taken possession of by the Court of Wards or not, will be a charge upon the property concerned. The further procedure indicated in the section, as it stands in the Bill, is that it shall be recoverable as if it were an arrear of land revenue. I submit that this is not a desirable provision of law. There is no reason why expenditure of this kind should be placed on the same footing as an arrear of land revenue due to Government. These charges, like other charges, ought to form a charge upon the property and it may be that the provision, if passed, would work hardship. It may be that a particular item of an estate may have been mortgaged and for the purpose of recovering the expenses that item of property might be brought up for sale and sold under the Rent Recovery Act, free of all incumbrances, so that the person who advanced the money on that would be deprived of that money.

The Hon'ble C. Jambulingam Mudaliyar Avargal seconded the amendment.

The Hon'ble Mr. H. M. WINTERBOTHAM:—It is quite clear that the expenses incurred for the temporary protection of the property, and the minor, should be recoverable. So much is admitted. Can it be regarded as expedient and reasonable that Government should be compelled to file a civil suit to recover the amount? I submit that the Collector should have that summary power of recovery which the section confers upon him, and that the proposed amendment should be rejected.

The amendment was put and lost six voting for and thirteen against it.

Section 11 was then passed by the Council.

SECTION 12.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—The amendment proposed by me to this section is consequential on the amendment to omit section 16 lower down. It is only if that amendment is carried this will be right. If the consideration of this is postponed for the present I will move it after the other amendment is passed.

His Excellency the PRESIDENT:—We will postpone the consideration of section 12 until the amendment to section 16 is disposed of.

SECTION 13.

The Hon'ble P. Ratnasabhapati Pillai Avargal withdrew the following amendment which stood in his name:—

To omit the words "or (*d*) of section 9," and to remove the word "him," and substitute the word "her."

The Hon'ble G. Srinivasa Rao Avargal withdrew the following amendment of his:—

That the words "or (*d*)" be omitted.

Section 13 was passed by the Council.

SECTION 14.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—Your Excellency, the amendment of which I have given notice runs thus:—

To add the following paragraph to the section:—

"If the case falls under clause (*c*) or (*d*) of section 9, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the district court within whose jurisdiction the proprietor concerned may be residing; and upon such Collector so applying, the district court shall inquire into and determine the question as to the alleged incapacity."

The Honourable Member proceeded to remark on the necessity for some provision for setting the court in motion in cases falling under clause (*c*) of section 9.

The Hon'ble Mr. H. M. WINTERBOTHAM:—You will find the whole subject fully treated in the Lunacy Act.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—In these circumstances I beg to withdraw my amendment.

SECTION 16.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—Section 16 gives power to the Local Government to make a declaration similar to the one made under section 9, even though no report concerning a proprietor may have been submitted by the District Collector to the Court or by the Court to the Local Government. That section has been placed there, I believe, in order to enable the Government to bring an estate under the superintendence of the Court where the Collector has not taken the initiative. Section 12 gives power to the District Collector to take the initiative, and the Local Government passes its orders on the recommendation of the Court of Wards which acts upon the report of the Collector. Section 12 provides that the Court may call for a report, that is, in cases where the Collector has not taken the initiative. I presume that section 16 is intended to cover cases in which neither the Court nor the Collector has received information or taken the initiative. In such cases the Government is empowered to act under section 16. I think it would be enough if the

Government takes powers to direct the Collector to send a report, as the Court of Wards can do under the proviso to section 12. If the Collector sends a report, the Court of Wards will make its recommendations under section 14 and the Government will pass order under section 15. Beyond that, I find no justification whatever for the section as it stands. If there is no report either by the Collector or the Court, in what fashion will the Government receive information? The Court has to be assured that there is a proper case. The Bill nowhere enacts that the Government receives information in any other fashion. That being the case, the section, as it stands, looks unintelligible and purposeless and altogether aimless, unless it be that where the Collector has not received information, and taken the initiative, the Government should direct him to submit a report. If that is to be the object, the whole section is out of place. As the section stands, it has the appearance of an arbitrary and despotic character, although I do not for one moment believe that the Government desires to take such arbitrary powers. If this section is omitted, I can move my amendment to section 12 and that will carry out the purpose we have in view, viz., that the Local Government should be able to issue the necessary orders even in cases where the Collector has not taken the initiative.

The Hon'ble Mr. Eardley Norton:—I beg to second this amendment. In seconding it, I wish to point out that my main objection to section 16 is that it does not provide for the safety of notice which section 13 provides. That is to say, whenever a Collector takes action he has to give notice under section 13 to the disqualified proprietor, and that proprietor is to have an opportunity of being heard. I do not see why the Government should not provide a similar safeguard in section 16 whenever it proposes acting on information which it may receive. I think the Government ought to insert, at any rate, some provision which will enable a man whose property is to be taken to know the grounds on which his property is to be so treated and to have an opportunity of stating his own case.

The Hon'ble Mr. H. M. Winterbotham:—The retention of this section is certainly not a vital point on which the Government need insist. Unless I can persuade the meeting to consider that the section is desirable as it stands, there is no objection to the section going out. To secure the rejection of the proposed amendment, it ought to be sufficient for me to point out that all three of the Acts on which our Bill is modelled give Government the discretion which my honourable friend wishes to disallow. In the Central Provinces Act no report by the Collector or any one else is prescribed. The discretion of Government is left unfettered, and cannot be contested by civil suit. The North-Western Provinces Act does not provide for any inquiry by the Collector. If in any case the right of the Court of Wards to assume superintendence is disputed, "the case shall be reported to the Local Government whose order shall be final." The Act leaves the Government to intervene on any information which it deems sufficient. Finally the Bengal Act in section 28 has a provision empowering Government and the Court of Wards to act without any report from the Collector. Under the circumstances it is hardly necessary for me to put hypothetical cases in which the immediate action of Government, without awaiting any report, might be just and proper. The proprietor might be residing in Madras, mixing in society, in frequent intercourse with the Members of Government, and the mental or physical infirmity necessitating intervention for the protection of his person and estate might be sudden, and perfectly well known not only to Government but to the public. I submit that the proposed omission of section 16 should be rejected.

4-20 P.M.

The Hon'ble Mr. Eardley Norton:—I should like to know whether the Honourable Member has any objection to insert a provision in section 16 similar to the provision contained in section 13 giving an opportunity to the proprietor to show cause. That would cure my objection.

The Hon'ble Mr. J. Thomson:—It appears to me that the proposal of the Hon'ble Mr. Jambulingam Mudaliyar meets the case.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—I just wish to say a word or two. I am thankful to the Honourable Mover of the Bill for the way in which he has spoken in reference to my amendment. As to the imaginary case put forward by him that a man in Madras might be suddenly smitten with some infirmity, I submit that it is an extreme case, as extreme a case as that which I imagined in regard to clause (*d*) of section 9. In that matter I was denounced as visionary and as raising

all sorts of difficulties and on that ground I felt belittled. I think the same arguments which were so ably stated by the Honourable the Advocate-General will apply with equal cogency to the imaginary case cited by the Honourable Mover. With reference to the observations of the Hon'ble Mr. Eardley Norton, if this section is omitted, the small amendment which I shall make to section 12 would fully cover the case. If that amendment is carried, the provisions of section 13 as to giving notice, etc., will necessarily apply. I see the Honourable Mover has no serious objection to the omission of the section except the fact that all the three Acts in Northern India have it. I am unable to imagine the reasons and the grounds for the various provisions in the various provinces in India, unless I am familiar with the debates in the various Legislative Councils. Speaking for myself, so far as this presidency is concerned, I can hardly see any reason, except perhaps the extreme imaginary case put forward by the Honourable Mover of the Bill, why we should have any provision like this, which, to the public mind, strikes as arbitrary and despotic, while all that we want could be gained by amending section 12 and we can also avoid becoming odious.

His Excellency the PRESIDENT :—I think the Honourable Member has made out a very good case for the omission of this section; and I am quite willing to accept it, if the Council agrees to it.

The amendment was put and agreed to.

His Excellency the PRESIDENT :—I will now ask the Honourable Member to fulfil his pledge by moving his amendment to section 12.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—I beg to move that in the proviso to the section be inserted the words "or the Local Government" between the words "Court" and "may".

The Hon'ble Mr. H. M. WINTERBOTHAM :—I am willing to accept it on behalf of Government.

The amendment was put and agreed to.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—As section 16 has been omitted, the subsequent sections should be renumbered.

Section 12 as amended, and sections 13, 14 and 15 were passed by the Council.

The amendments similar to the one just carried and standing in the names of the Hon'ble P. Ratnasabhapati Pillai Avargal and the Hon'ble G. Srinivasa Rao Avargal were next withdrawn.

The Hon'ble Mr. H. BRADLEY :—In consequence of the omission of section 16 a consequential amendment had to be made in what is section 17 of the Bill.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—Throughout, some slight alterations will have to be made in consequence of the omission of section 16, but those things are usually done in the offices of the Secretariat. When the Bill comes up for final consideration, we may look to that.

His Excellency the PRESIDENT :—Does this come up for consideration again?

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—It frequently happens that the Bill is amended at one meeting and finally passed at a subsequent meeting.

The Hon'ble Mr. G. S. FORBES :—It is much more frequent that the Bill is passed at the same meeting as that at which its various sections are discussed in detail.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—Not when there are alterations.

The Hon'ble Mr. H. BRADLEY moved that in the new section 16 the word "sections" at the end of the section be altered into "section" and that the word and figure "and 16" be omitted.

The amendment was put and agreed to.

The Hon'ble Mr. J. THOMSON :—Let there be a general understanding that the necessary alterations should be made hereafter.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—The Secretariat offices will carry out the necessary alterations.

His Excellency the PRESIDENT :—Very well.

SECTION 17.

The amendment of the Hon'ble P. Ratnasabhapati Pillai Avargal and the Hon'ble G. Srinivasa Rao Avargal for the omission of section 17 was withdrawn.

Sections 17, 18 and 19 were next passed by the Council.

SECTION 20.

The Hon'ble P. Ratnasabhapati Pillai Avargal moved that in section 20 the figure "16" in clause (1) be omitted.

This was accepted by Government and agreed to by the Council.

A similar amendment standing in the name of the Hon'ble G. Srinivasa Rao Avargal was next withdrawn.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—The amendment of which I have given notice in respect of this section is that in clause (2) the words "devolving on him by inheritance," be removed and the words "becoming his property" be substituted. There may be cases in which a minor might get properties by a legacy or a gift from his relatives, and such properties accruing to the minor cannot be said to devolve on him by inheritance but nevertheless they become his property. If the Court of Wards is not to take charge of those properties, it will be necessary for the ward to make his own arrangements which will be very inconvenient. This amendment will have the effect of transferring to the Court of Wards the management of all property whether derived by gift or legacy or inheritance.

The Hon'ble Mr. EARDLEY NORTON:—I see no reason why the Court should not take possession of all property whether the ward gets it by inheritance, gift or legacy. Agreeing with the spirit of that, I second the amendment.

The Hon'ble the ADVOCATE-GENERAL:—I may just explain why I think the Honourable Member's amendment is an improvement. The words which occur in the section, viz., "devolving on him by inheritance" would not include the property left to the ward by a will which might be a valuable property and which from every point of view it might be desirable the Court should take over. I do not want to assent to the suggestion contained in his next amendment that the proviso be struck out. I want the Government to retain the full discretion whether it should take it over or not. It is desirable that the Court should have the power to take over the property left by a will. As the section stands at present, the Court has not got that power.

The Hon'ble Mr. J. THOMSON:—Why don't you say "devolving on him by inheritance or otherwise."

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—The word "devolve" may not apply to property obtained by a will, as the word is connected with succession. The wording as originally proposed by me is preferable.

The Hon'ble Mr. EARDLEY NORTON:—Is it open to me to move an amendment on this? I seconded this amendment, but so far as the phraseology is concerned I do not approve of it. I do not like the language "becoming his property." I agree that the word "devolve" ought not to be allowed to stand, because it limits the rights of Government to interfere to cases of devolution only. I object to the phrase "devolving by inheritance or otherwise" as legally unscientific. I learn that the Advocate-General is with me, and I would suggest the addition of the following words after the word inheritance, "or to which he shall afterwards become, in any way, entitled."

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—I accept the Hon'ble Mr. Eardley Norton's wording.

The Hon'ble Mr. H. BRADLEY:—The early part of clause (2) of this section provides that the Court shall take possession of the property which devolves upon a ward by inheritance; and the latter part gives the Court discretion to refrain from taking the superintendence of property which a ward acquires otherwise than by inheritance. By altering the early part of this clause, we shall be altering the principle of the section as it stands.

The Hon'ble Mr. H. M. WINTERBOTHAM:—I beg to support the remarks of the Hon'ble Mr. Bradley. The meaning seems perfectly clear. The first part of this clause imposes an obligation to assume the superintendence over property devolving by inheritance, and immediately afterwards it says that the Court may or may not assume the superintendence of any other property.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—There is absolutely no necessity for any alteration. The two portions of the clause refer to two different states of things. As regards the compulsory portion, it refers to property devolving on a ward by inheritance. In the other case where he gets property by will or gift, it is discretionary with Government either to take charge of the property or not.

4-40 P.M.

The Hon'ble the ADVOCATE-GENERAL:—With Your Excellency's permission, I would just say one word. As the clause now stands, it is not artistic. If we first lay down that all property is to be taken over by the Court, then it is right to put in a proviso to say that, with regard to property coming afterwards, it is in the discretion of the Court either to take it or not. If the section is left as it is, the Court has not got any power, unless it be found in the proviso itself, to take over property which a ward may get either by will or gift after superintendence is assumed. If the amendment suggested is carried, the effect of it will be that there will be a broad proposition that the Court takes over all property before or after the superintendence, and secondly a proviso that it shall be in the discretion of the Court to refrain from assuming charge of the property obtained after superintendence otherwise than by inheritance. I cannot help thinking that the amendment is one which will be an improvement on the frame of this clause.

The Hon'ble Mr. H. M. WINTERBOTHAM:—I may state that this clause was taken *verbatim* from one of the Northern India Acts.

The Hon'ble S. SRINIVASARAGHAVA AIYANGAR Avargal:—I beg to call the attention of the Council to the fact that section 20, clause (2), has to be considered along with section 34 as renumbered.

The Hon'ble the ADVOCATE-GENERAL (interrupting):—May I mention a little amendment that I intend proposing to section 35 to meet the criticism which the Honourable Member is going to make? The amendment that I intend moving in connection with section 35 is to leave unrestricted the contracting power of the ward in regard to the property which the Court does not take over. I propose to limit his incapacity by putting at the end of the first paragraph of section 35 the words "personally or in respect of such property". The effect of that amendment is to leave him quite free to contract so far as this Act is concerned with respect to property which is not taken over by the Court.

The amendment proposed by the Hon'ble Mr. Eardley Norton and accepted by the Hon'ble P. Ratnasabhapati Pillai Avargal was put and agreed to.

The Hon'ble P. Ratnasabhapati Pillai Avargal then withdrew the following amendment, of which he had given notice:—To omit the whole of the proviso in clause (2), commencing from the word "provided" and ending with figure "19".

Section 20 as amended was passed by the Council.

SECTIONS 20 AND 21.

The Hon'ble G. SRINIVASA RAO Avargal:—I beg to move that a section as follows be added to chapter III of the Bill:—"Collectors making such reports upon insufficient authority whereby proprietors of property shall be deprived of the possession and management of the said property shall, on proof that such reports were made through negligence or malicious purposes, be liable in damages together with costs." The object of my amendment is that some restriction may be placed on Collectors. My object is not that we should be hard upon the Collectors to any extent. The argument necessary to support this amendment has been in a manner, by anticipation, given by the Hon'ble the Advocate-General and the Honourable Member in charge of the Bill. I do not say that they did give it in this connection, but I can tell you how it has been done. There is Regulation II of 1819. If it is to be put into effect, it was pointed out that all of us might be in jail. As it has not worked hardship, nobody proposes to get rid of it. In Regulation V of 1804 which is as old as the century itself, there is section 26 wherein similar limitations are placed so far as managers and guardians are concerned. We know how the Collectors are hard worked. In the midst of the multifarious duties that they have to do, a thing might slip through them without all the *pros* and *cons* being well noticed.

That such a provision as this should exist is very essential and I do not propose it in the same harsh terms as are embodied in section 26 of Regulation V of 1804. Not only does that Regulation give the safeguard that I propose in my amendment, but it goes further and says that a Collector shall be liable to prosecution for fraud. I do not want to go to the length of saying that they ought to be prosecuted. Time might have been in 1804 when it was thought necessary to hold out a severer threat if the work was carelessly done. We shall retain the provision which is as old as the century itself, but only alter it in such a way as to make the Collectors liable in damages. Further than that it is unnecessary to go. The existence of the provision will not harm anybody, but will have a wholesome effect where necessary.

The Hon'ble Mr. EARDLEY NORTON :—It seems to me that there has been displayed to-day, especially in the speech of the Honourable Member in charge of the Bill, a strong inclination to precedent and authority. Precedent and authority have been quoted for keeping alive old Regulations which, among other provisions we are told, include the possibility of sending the gentlemen sitting on this side of the table handcuffed to jail. I do not see why Collectors should not be liable to a similar treatment, on the principles of that antiquity to which the Honourable Member has appealed for the retention of other sections. I think this amendment should be passed. If it is passed it will probably have a salutary effect in the way of checking anything like haste in the assumption of properties. To that extent the proviso seems admirable.

The Honourable the ADVOCATE-GENERAL :—Your Excellency, I just desire to put before the Council one reason which I think is conclusive against the acceptance of this amendment. This clause, if passed, would give any ill-disposed person an opportunity to harass the Collector, however carefully he might make his report ; it would be open to any malicious person to bring an action against him, drag him through courts and subject him to great harassment and worry. It is to prevent such mischief that there is the judicial immunity Act whereby judges cannot be proceeded against for what they do in court. Not that a judge or a Collector or anybody else who fails in his duty ought not to be punished, but it should not be left open to private persons to bring an action for damages. A plaintiff can always allege that a Collector has acted maliciously and the court will have to inquire into it. He will be put to the harassment of a suit, and it is on that account in modern legislation provisions of this nature are not to be met with. If a Collector, however, acts negligently or maliciously, and if that is brought to the notice of Government, he will, no doubt, be properly punished. On grounds of public policy and also having regard to the fact that only one Collector out of 1,000 would act maliciously, I think that, in the interests of the other 999 Collectors, this amendment ought not to be accepted.

His Excellency the PRESIDENT :—There is no need to go into abstract principles raised by this amendment. It must be clear to the Honourable Members that this is a most mischievous amendment and will have the effect of nullifying the other provisions of the Bill. I hope they will reject it.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—It has been pointed out that a similar provision exists in the Court of Wards Regulation V of 1804, but to my mind the provision seems unnecessary. I do not think that this Bill gives immunity to misbehaving Collectors from punishment, or from damages being given to any man injured by the action of a Collector done through his negligence or with a malicious purpose. Even with this Bill, he can be taken before a court of justice and damages levied from him. There is no immunity granted here as it obtains in the Act for the protection of judicial officers. As a matter of fact, I do not find any analogy between the protection given to judicial officers and any protection that may be claimed in behalf of Collectors. The acts of judicial officers are done in court, *i.e.*, in the full gaze of the public in the presence of all parties and their advisers, and witnesses are examined in public and their veracity tested by all the legal methods available. But the acts of Collectors and other executive officers are done in their chambers, often through demi-official correspondence, and sometimes anonymous, pseudonymous, petitions play a very important part in the matter of decisions arrived at by them. If a Collector does really act with a malicious purpose, even this Act will not save him. The effect of this express provision in the Bill would be just the same as the existence of the ancient Regulation which has been so often quoted against us, and as the existence of section 69 of the Bill, which has never been

put into operation, and which provides for punishing persons abetting the marriages of minors. I do not know if any person has been taken before the court under this section. If the amendment is passed, it would no doubt keep these gentlemen reminded of their responsibilities and of the consequence that may result from any misbehaviour on their part. Except that it is useful in that direction, there is no necessity for it, as no negligent and malicious act of a Collector would go unpunished. The argument of the Advocate-General, that a misbehaving Collector would be punished departmentally, is no argument at all. If a Collector should misbehave and act maliciously, there is no reason why he should not be taken before a court. That he is punished in the executive department is no satisfaction to the person who suffers by his malicious acts. The executive will not give adequate damages to the person who suffers the injury. The proposed section would simply enunciate what the Collector's liability would be. I do not see any harm in having it. It would be simply declaratory of what the existing law is.

The Hon'ble K. Perraju Pantulu Garu:—I am inclined to doubt whether an officer who can lawfully do a thing can be made liable to pay damages if he does that maliciously. This proviso has been in the old Regulation for the last one hundred years, and no suit within our knowledge has ever been brought against a Collector. Just like the Regulation that the Honourable Mover of the Bill has been reminding us of, both at Ootacamund and here, this is simply a sort of reminder that the officer ought to take care in his proceedings. It is not with the mischievous intention of nullifying all the other provisions of the Bill that this has been brought forward by the mover. It has been there for one hundred years and there is no harm in having it. It will not encourage any person to go to the length of filing a suit against a Collector on the ground that he acted maliciously against him. Unless conclusive proof be obtained, no suit against a Collector can succeed; and no man in his senses would launch upon such a litigation unless he is thoroughly sure of his ground.

5 P.M.

The amendment was put and lost, five voting for and fourteen against it.

At this stage His Excellency the President informally consulted the Honourable Members as to whether it was desirable to continue the discussion for some time longer, or to adjourn the meeting to the next day, as it was already 5 o'clock. The result of the consultation was that it was decided to continue the discussion for one hour longer.

Section 21 was passed by the Council.

SECTION 22.

The Hon'ble P. Ratnasabhapati Pillai Avargal had an amendment to this section to add the words "for examination" after the words "to attend before him."

The Hon'ble Mr. Winterbotham having accepted this amendment on behalf of Government, it was put and agreed to.

Section 22 as amended and section 23 were passed by the Council.

SECTION 24.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—Section 24, as it stands, enables the Court to make arrangements in respect of the custody, residence and education and marriage of any ward. My amendment to this section is that the words "and marriage" be omitted. Section 35 deals with the competency of a ward to do various things and his incompetency to do other things. It says "a ward shall not be competent—(*a*) to transfer or create any charge on, or interest in, any part of his property which is under the superintendence of the Court, or to enter into any contract or to make any acknowledgment involving him in pecuniary liability: but nothing in this clause or in section 24 shall be deemed to affect the capacity of a ward to enter into a contract of marriage." Whereas section 24 gives power to the Court to make arrangements for the marriage of any ward, section 35 of the Bill declares the capacity of a ward to enter into a contract for marriage; but it provides "that he shall not incur in connection therewith any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances, the Court may, in writing, declare to be reasonable." Section 35 declares the full capacity of

a ward to enter into a contract of marriage and the Court puts a salutary check over indiscreet contracts by withholding the money, the sinews of war. Even though he can enter into a contract of marriage, he cannot go through it until the Court is willing to release him from the superintendence. If section 24 is passed, the Court can make arrangements for the marriage of a ward. Arrangements would cover such details as whether the bride is suitable for the bridegroom or the bridegroom is suitable for the bride; and the judging of those personal matters would then be within the province of the Court of Wards. Considering that most of these wards would be Hindus and seeing that there are so many differences in Hindu castes, it seems to me that the provision for making arrangements for the marriage of wards is out of place in section 24. It is certainly beyond the province of the Court of Wards to go into such things. Besides section 35, which I have already quoted, there is the most powerful section, section 69, whereby any person who abets the marriage of a minor can be punished with a fine of Rs. 2,000 and imprisonment for six months. A Hindu marriage cannot be gone through without some persons being brought under that section, if the marriage is objectionable in the view of the Court of Wards. There must be the purohit and a number of Brahmins who would be officiating at the marriage. The ancient form of Gandharva marriage is no longer in vogue, so that it is impossible that any Hindu marriage could take place without a number of Brahmins being present at it and repeating mantrams. Surely they would not run the risk of being prosecuted for aiding and abetting unsanctioned marriages of minors. Under sections 35 and 69, there are ample provisions to safeguard indiscreet marriage alliances. If the minor or ward has left the superintendence of the Court of Wards, the Court cannot have any control over him. But during the time of his superintendence and his being a ward, there is ample provision to secure the object of Government, without the provision contained in section 24 to make arrangements for the marriage of a ward, which is altogether out of place and sounds incoherent in the ears of a Hindu, who cannot understand how the Court of Wards could bring about an alliance between a Brahman ward and a Brahman girl. For these reasons, I beg to move this amendment.

The Hon'ble P. Ratnasabhapati Pillai Avargal seconded the amendment.

The Hon'ble S. Srinivasaraghava Aiyangar Avargal:—My Lord, I beg to oppose this amendment. The Honourable Mover of this amendment seems to have mistaken the scope and object of this section. He seems to believe that by giving power to the Court of Wards to make arrangements for the marriage of a ward, the Court is vested with the power to act in the matter just as it likes, to the neglect of the customs of this country and of the ordinances of the religion to which the ward belongs, to marry a ward when he does not wish to marry or to marry him to a girl whom he does not wish to marry or whose family he considers unsuitable. With regard to wards whose person is, for the time being, under the superintendence of the Court, a guardian is appointed by the Court to look after him; and he is to regulate all his actions by the advice of that guardian. That guardian is under the orders of the Court of Wards and is bound to report his action to, and take his orders from, the Court of Wards. As soon as this guardian is appointed, the rights of the natural guardian become suspended and even without this section, that guardian would have this power and he would have to act under the orders of the Court. The section therefore, simply recognises this, and declares that it is the duty of the Court to make arrangements for the marriages of wards when necessary, more especially as the rights of natural guardians in this respect are suspended. I had been connected with the revenue department for many years and though latterly I have been serving in other departments, I have made inquiries as to the practice obtaining in regard to this matter in the revenue department; and I may say that, as a matter of fact, there is not felt the slightest difficulty in making these arrangements. No officer of the Court or no member of the Court of Wards will ever think of marrying a Brahmin girl to a Sudra bridegroom or *vice versa*. What is generally done is this:—the near relations of a ward arrange the preliminaries of the proposed alliance and apply to the guardian or the manager for such help as may be necessary. If the intended bridegroom is in a different district, the Collector of the district is referred to, and his sarishtadar or other high native officer makes the necessary inquiries to see that the alliance is in all respects a proper one. It is not intended in any way to interfere with the religious usages or the customs of the parties concerned,

and if such an attempt be made, which I do not think will even be dreamt of, it will be clearly a dereliction of duty on the part of the officer attempting it. All that is intended is that there must be legal provision for bringing about the marriage of a ward if it is considered that the marriage should take place, and all arrangements in respect of the marriage would, of course, be in conformity with the usages and sentiments of, at least, the enlightened portion of the community to which the ward belongs. I have looked up the Standing Orders bearing upon the subject and I find that it is distinctly laid down, in connection with the education of wards that it is considered desirable to postpone their marriage as long as possible in order that their education might be completed; and where in any particular case the matter is pressed by the relations Collectors have been enjoined to use their influence with these relations and natural guardians who take interest in the welfare of the ward, to get it postponed. There is not the slightest reason to apprehend that this power will, in any way, be abused, and it is a power which the Court of Wards must have, as a necessary part of the arrangement under which they manage all the affairs of the ward.

5-20 P.M.

The Hon'ble K. PERRAJU PANTULU Garu:—I do not see why the Court of Wards should trouble itself about the marriage arrangements of its wards. According to Hindu law, one of the age of 16 may marry. This is a right which the Hindu law gives him. Even the Civil Courts Act in section 16 lays down that in matters of marriage the Hindus ought to be governed by the Hindu law. There are other provisions in the Bill against imprudent marriages, and there is no reason why the question of marriage arrangements should not be left to those who are closely connected with the wards.

The Hon'ble Mr. H. M. WINTERBOTHAM:—This is one of the many sections of the Bill which I should call admonitory sections. It admonishes the Court of Wards as to what its duties are towards a ward whose person is under its superintendence.

For nearly half a century it has been, as the Honourable Mover has pointed out, an offence to abet the marriage of a minor ward, or of a younger brother or sister of such minor, without the leave of the Collector to such marriage being first obtained (*vide* section 9, Act XXI of 1855). We are maintaining this old and salutary provision of the law with the change that the consent required is to be that of the Court of Wards. When the law makes it an offence to abet the marriage of a ward without the Court's consent, it is manifest that the Court must arrange to permit a marriage if it approves of it, or to forbid a marriage if it deems it unsuitable. If the person of the head of the family is under the Court of Wards' control, is it not obvious that the Court must not wash its hands of all responsibility in the matter of securing a suitable match for the ward and for the younger members of the family of which he is the head, and whom he would be bound to maintain if he were not incapacitated?

As a matter of fact the Court of Wards, as the Hon'ble Mr. Srinivasaraghava Aiyangar observed, has been habitually performing the duty which section 24 contemplates. I cannot imagine a more lamentable position than that the Court of Wards should be given control over the persons of the ward, and of the younger members of his family dependent on him, and should at the same time be told that it has no concern in the matter of marriages, and should leave the ward and children whose persons it is in charge of to get married as best they can. Doubtless, if the amendment be unfortunately accepted, the Court of Wards will nevertheless go on doing its duty by its wards in the matter of arranging proper marriages for them, but the omission in our Act to give the Court the necessary discretion would, I think, be a serious blot and flaw in the measure.

I have only one thing more to say and that is to traverse the assertion of the Hon'ble Mr. Jambulingam Mudaliyar that there is a direct contradiction between sections 24 and 35. Section 35, he says, declares the full capacity of a ward to contract a marriage. I must venture to declare that it does nothing of the sort. Section 35 merely says "Nothing in this clause or in section 24 shall be deemed to affect the capacity of a ward to enter into a contract of marriage." It does not assert his capacity or deny it, but it simply says that nothing in this clause will affect it. If the ward has it, it will not be affected by this section; but if he has not got it, he does not get it by this section. It does not declare that a minor ward has power to contract a marriage. In my opinion the amendment ought to be rejected.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—Your Excellency, with regard to the observations that fell from the Honourable Mover of the Bill, about the operation of section 35, I beg to differ from him. The wording of the section is "but nothing in this clause or in section 24 shall be deemed to affect the capacity of a ward to enter into a contract of marriage". That means that the ward has the capacity to enter into a contract of marriage.

The Hon'ble Mr. H. M. Winterbotham:—No.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—That is the ordinary acceptation of the term. The natural inference to be drawn from this clause is that the minor has the capacity to enter into a contract of marriage; otherwise there is no meaning in that saving clause. Undoubtedly there is inconsistency between sections 24 and 35.

The Hon'ble Mr. M. Hammick:—My experience of the Court of Wards tells me that this provision is necessary. I remember a case of a female ward of the Court—I do not remember the exact circumstances—in which the relations that had something to do with the property had no wish to see the ward married. In such a case, unless the Court had direct power to bring about the marriage of the girl as long as the estate was under its management, the girl would not have been married. That would surely have been a great disgrace. That was a case in which the Court was obliged to interfere and bring about the marriage of the girl.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—With great deference to the Honourable Mover's views, I fail to see that sections 24 and 35 do not conflict with each other. In section 35 you will find "but nothing in this clause or in section 24 shall be deemed to affect the capacity of a ward to enter into a contract of marriage." That portion refers to the previous paragraph. "A ward shall not be competent—(a) to transfer or create any charge on, or interest in, any part of his property which is under the superintendence of the Court, or to enter into any contract". But the Honourable Mover put it that the section leaves in *statu quo* whatever powers or rights he would have, if this section were not in existence, and those powers and rights would be left intact so far as marriage is concerned. I believe I am right in saying that the Indian Majority Act makes an exception in the case of marriage, adoption and certain other things. The Indian Majority Act, which fixes the age of majority at 18 for certain cases and 21 for others, does not affect the capacity of a Hindu to contract marriages, to make adoptions, and so on. So his capacity to contract a marriage is not affected by the circumstance of his being under 18 or 21, and if you take that provision into consideration, the exception made in section 35 leaves whatever power the ward would have to contract a marriage even though he be under 18. If he has that power, he can enter into contract.

The Hon'ble Mr. H. M. Winterbotham:—He may have the capacity but not the power.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—Yes. If you go back to section 24, you will find that capacity is interfered with. The Court says: You have no doubt the capacity to enter into a contract of marriage but we will not allow you to make that contract. To my mind, it seems to me that the conflict between sections 24 and 35 is not removed in spite of the explanation given by the Honourable Mover of the Bill. To be consistent, it would be necessary to propose the omission of section 35. If that is omitted, I would support section 24. With reference to the observations of the Hon'ble Mr. Srinivasaraghava Aiyangar, I still submit that the safeguards provided under sections 35 and 69 are ample to protect the wards from entering into indiscreet contracts or to prevent other persons from helping and abetting them in improper marriages.

5-30 P.M.

The Hon'ble Mr. J. Thomson:—I do not wish to interpose, but I want to know how a ward can be got married if the Court is not to bring about his marriage, the ward for the time being under the Court.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—With Your Excellency's permission, I may explain that under section 35, so long as the ward's capacity to enter into a contract of marriage is not affected, the Court would exercise a check over it by providing the money, when the marriage is celebrated with the help of his relatives though not under the superintendence of the Court of Wards. They can perform the marriage only after getting the necessary money from the Court.

The Hon'ble Mr. J. Thomson :—If the Court of Wards is to stand aside and allow the relatives to bring about a marriage, I must certainly oppose the amendment.

The Hon'ble C. Jambulingam Mudaliyar Avargal :—What I submit is that the contract of alliance must be brought about by the members of the family themselves. When that is approved of, the Court gives the money ; otherwise it will not.

His Excellency the President :—If you strike out the words "and marriage," the Court will have no power to give money for a marriage.

The Hon'ble C. Jambulingam Mudaliyar Avargal :—Section 33 provides for it.

His Excellency the President :—That is the necessary consequence of section 24.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—Section 29 provides for leave being obtained from the Court of Wards.

His Excellency the President :—That is a penalty section. That does not enable the Court of Wards to find the money.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—No ward can be married without the permission of the Court.

His Excellency the President :—We want to give power to the Court of Wards to provide the money.

The Hon'ble C. Jambulingam Mudaliyar Avargal :—That, I submit, will be covered by class I of section 33 and the proviso to section 35. The Court grants reasonable expenditure under section 35. If it is merely an enabling section to sanction marriages otherwise contracted for, I have no objection to section 24 ; but the section, as it stands, covers a wider ground. The words "and arrange" give a wider scope to it.

His Excellency the President :—The Honourable Member is now discussing another point. He is now discussing the propriety of retaining "and arrangements," while what he has proposed is the omission of "and marriage."

The Hon'ble C. Jambulingam Mudaliyar Avargal :—The words "and marriage" are out of place, because the words "and arrangements" are there. If the words "and arrangements" be read in connection with the words "and marriage," they give a much wider scope in connection with marriages which may not be agreeable generally.

His Excellency the President :—Will the Honourable Member's view be met by leaving out the words "and arrangements."

The Hon'ble C. Jambulingam Mudaliyar Avargal :—What I say is the words "and marriage" in section 24, read with the words "and arrangements", give a great scope over marriages of Hindu wards, which, in my opinion, is not desirable, whatever may be the opinion of others. The words "and arrangements" are in their proper place with reference to custody, residence and education of wards. There they have the fullest scope.

The amendment was put and lost, four voting for and twelve against it.

His Excellency the President :—The next amendment standing in the name of the Hon'ble Mr. Ratnasabhapati Pillai falls through, as it is identical in terms.

Sections 24, 25 and 26 of the Bill were passed by the Council.

Section 27.

The Hon'ble the Maharaja of Bobbili :—My Lord, in this section, it is not distinctly stated that the guardian must be a relative of the ward. If a relative is appointed, he would have interest in the ward, and the other members of the family, and he would be of the same religious persuasion as the ward himself. He would also be able to look after the moral conduct of the ward and of his other members. I therefore beg to add at the end of the proviso to sub-section (1) the following : "and provided also that when a male relative of a ward is not available, an elderly person of the same religious persuasion as the ward himself shall be appointed guardian."

The Hon'ble P. Ratnasabhapati Pillai Avargal :—I beg to second this amendment. I have myself given notice of a similar amendment, but a little more comprehensive than this. My amendment would not only introduce religious persuasion, but would

also put in a restriction that the guardian should be of the same personal law as that of the ward. It seems to me that it is exceedingly undesirable that a person of a totally different religion should be appointed a guardian. For instance, a Christian should not be the guardian of a Hindu and *vice versâ*. It seems to me that the amendment serves a very necessary purpose and avoids conflict of interests. I should be glad if the Honourable Mover of the amendment would consent to include the words "or be governed by the same personal law" in his amendment. Personal law is more comprehensive. Suppose a Hindu is appointed a guardian, it does not matter whether he belongs to the same denomination as the ward or a different denomination.

The Hon'ble the MAHARAJA of BOBBILI :—I have no objection to adopt the Honourable Member's amendment.

His Excellency the PRESIDENT :—Will the Honourable the Maharaja of Bobbili withdraw his amendment and second the amendment of the Hon'ble Mr. Ratnasabhapati Pillai?

The Hon'ble the MAHARAJA of BOBBILI :—Yes.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—I beg to move that at the end of the section the following proviso be added :—

"Provided also that the guardian appointed shall be of the same religious persuasion or be governed by the same personal law as the ward."

The Hon'ble the Maharaja of Bobbili seconded the amendment.

The Hon'ble Mr. H. M. WINTERBOTHAM :—The first thing we should require before accepting the amendment is the definition of "religious persuasion". I do not know whether wards of tender years necessarily have any religious persuasion; and "elderly persons" may be in the same predicament. If persuasion means creed, the tenets of the Hindu religion do not admit of being stated in the form of a creed, or at any rate no accepted dogmatic embodiment of the Hindu faith, in the form of a creed, exists. I don't think the amendment can be accepted. Section 17 of the Guardians and Wards Act directs that in choosing a guardian a Court should be guided by what, consistently with the law to which the ward is subject, appears in the circumstances to be for the welfare of the ward; and that, in considering what will be for the welfare of the ward, regard should be had to the age, sex, and religion of the ward, the character and capacity of the proposed guardian, the wishes, if any, of a deceased parent, the intelligent preference of the ward, and the consent of the proposed guardian. Having been myself a member of the Court of Wards for some years I can assert that these are the considerations by which the Court of Wards is habitually guided. But the Guardians and Wards Act imposes no such restriction as my honourable friend is anxious to introduce, and a moment's reflection must show that, in the circumstances of the country, the restriction would be extremely unwise. Whether we like it or dislike it, the rulers of this country are not of the same religious persuasion or under the same personal law as the governed, and are not likely to be for some time to come. I will venture to suggest that if my honourable friend will search the depths of his heart, what he really desires is that the rulers of this country should be of the same religious persuasion and under the same personal law as his own. I take it that he cannot seriously think that the guardian and ward should necessarily be of the same caste. It no doubt is the case that all, or nearly all, the wards who come under the superintendence of the Court of Wards are Hindus, and what my honourable friend proposes, if I understand him aright, is that the guardianship of Hindus should be restricted to those who are under the Hindu law. Shanars, Maravars, Tiyars (I merely mention them as well-known castes) and the innumerable castes included in the Panchama division all come under the Hindu law, and my honourable friend would leave it open that a Shanar guardian should be appointed to a Brahmin ward, or a Tiyan guardian to a ward who is a Kshatriya, or a Pariah guardian to a ward who is a Maravar. I have said enough to indicate that my honourable friend's amendment would not prevent improper appointments, and that the selection of a guardian must be left, where our Bill leaves it, to the good sense and discretion of the Court of Wards. I trust the amendment will be rejected.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—The Hon'ble Mr. Winterbotham has put this case in the same way as he has put some other cases, taking extreme cases for illustration. I suppose the object of the Honourable Mover of this

amendment is not to limit the powers of the Court of Wards to appoint proper persons to whatever religious persuasion they may belong for the purpose of guiding the education of the wards and the general management of their daily life. Such a person we find in Mr. Morrison, the present guardian of the wards under the superintendence of the Court. The guardian contemplated by this amendment is not to exercise the function now performed by Mr. Morrison. He will be a person who will have a more intimate acquaintance of the daily life of the ward, and who will know the ways in which he ought to be brought up as a Hindu in the matter of his daily observances, dress and other details which, without conveying any special dogmas or religious ideas, go far to make up a Hindu. Many a person may be utterly ignorant of the tenets of Hinduism, but he would be known as a Hindu by his personal appearance, accoutrements and the marks on his forehead. These things, so far as the people of this country are concerned, preserve their national appearance. If you go to Newington, we find as many as twelve boys with cropped hair such as we find among people of other religious persuasions. You will rarely find among Brahmin and Kshatriya classes, excepting the advanced social reformers, the European or the Muhammadan crop of the head. I was surprised to find a uniform method of shearing the head, which is English, among the Hindu wards there. There one person struck me. It was a young Malayali who had a tuft in the front portion of his head cropped. So far as my knowledge goes, that is a most essential portion of his religious faith. I learn that there was a considerable grievance over that kind of shearing. To persons of better understanding it might not matter whether the head is close cropped or the tuft is in the front or behind. But so long as we have Hindu wards whose feelings and sentiments run in a different direction, we ought to respect those feelings and sentiments. Mr. Morrison, I know, is thoroughly sincere, and if he has ordered the cropping of the hair he has sincerely thought that it would be conducive to the health and the personal convenience of the wards. Mr. Morrison does not understand a word about *Sraddhas*, so that it is necessary to have some person who will understand these things. It is with that view the appointment of personal guardians is suggested by the mover of the amendment, who suggests that they must be of the same religious persuasion as the ward, taking the term "religious persuasion" in its general sense and not in the critical sense in which it is examined by the Hon'ble Mr. Winterbotham. These people without any study or trouble know almost instinctively what are the ways in which wards should be brought up so that they might continue to be Hindus and might not look altogether altered persons. I must once for all emphatically repudiate the statement that the amendment to have a Hindu guardian indicates, after a deep searching of the heart, an inclination to have a Hindu government or a government of the same religious persuasion as the people. I do not see what justification there is for such a kind of interpretation being put upon the amendment when we ask for such a petty matter as to who should look after the personal affairs of the wards. If the Hon'ble Mr. Winterbotham meant simply that our ambitions soared high to become governors, lieutenant-governors and councillors, I could hardly see any sin in that. We shall be then thoroughly loyal to the sentiments and generous ideas of Her late Majesty, who vouched that we shall not be debarred from filling any office under the Crown by reason of colour, creed, or religion, but that we shall be advanced to all offices according to our fitness thereto. This amendment will not in any way clash with the authority of the tutor in the position of Mr. Morrison who has everything to do with the bringing up of minors. That being my view, I am inclined to support the amendment.

The Hon'ble Mr. G. L. Acworth :—My experience of the English rule in India is that it habitually respects every religious prejudice, and it is almost a standing order of the Secretary of State that it should be so. I should like to hear from the honourable gentleman who has just spoken whether, in the case of boys who had heads cropped, they were not asked if they preferred to wear a *puggree* or a cap. If they preferred to wear a cap, I can quite understand that, in order to wear a cap, it was absolutely necessary that the hair should be shorn. Is not that the case? I merely ask for information.

The Hon'ble C. Jambulingam Mudaliyar Avargal :—I understand that the grievances, whether real or fancied, were taken into consideration, and that the Malayali boy has been allowed to grow the *kudumi* and some other minors are also growing their *kudumis*.

The Hon'ble Mr. A. W. B. Higgens:—As stated by the Hon'ble Mr. Jambulingam Mudaliyar, it is a fact that the hair was cut off,—by misconception as to what it was right to do in such a case. But now any Newington boy who wishes to let his hair grow long is allowed to do so. This particular Malayali boy has now a kudumi 9 or 10 inches long.

His Excellency the President:—Do the Honourable Members regard as a serious argument an accident which is regretted on all hands that the cropping of kudumi should have happened?

The Hon'ble K. Perraju Pantulu Garu:—I know the case of the Pittapur minor. As soon as the boy was brought here his tuft, that he had been rearing, was cut off unceremoniously without asking the home guardian that was there about it.

The Hon'ble Mr. H. M. Winterbotham (interrupting):—I should just like to say—

His Excellency the President:—We shall hear the Honourable Member in one moment.

The Hon'ble K. Perraju Pantulu Garu:—What we say is that a guardian must be of the same religious persuasion and governed by the same personal law as the ward himself. The guardian will be the person that will be in constant attendance upon the ward. The Hon'ble Mr. Winterbotham said, What can a boy of ten or twelve years of age know of his religious tenets. In the case of Hindus it is the religion of the forefathers that is the religion of their children, unless they come altogether under the sway of the missionaries. Till they become converts to other religions, the religion of their forefathers is to be presumed as the religion of these boys. There will be a sort of influence exercised by these guardians over their wards, whether consciously or unconsciously. The wording of this amendment that the guardian should be of the same religious persuasion and be governed by the same personal law of the ward cannot be seriously objected to, and the amendment, if carried, would not hamper the discretion of the Court of Wards inasmuch as it is only discretionary and not mandatory.

The Hon'ble Mr. H. M. Winterbotham:—I only wished Your Excellency emphatically to remonstrate against personalities being used in this Council. The personal references which have just been made will give the greatest pain to the families of the children who have been mentioned. An unfortunate accident has been dragged in in a manner which, I think, is quite inexcusable.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—Before the motion is put to the vote, I should like to draw the attention of the Council to a similar provision in the Bengal Act. Section 45 of that Act says: "If a ward is a female, a female of the same religion shall, except in the case of a testamentary guardian, be appointed guardian, preference being given to female relatives if any such be eligible. But no guardian shall ordinarily be appointed or continued for a female ward if she has an adult husband." So that the amendment which I am seeking to introduce is not a novel provision, inasmuch as a similar provision is found in the Bengal Act. I should like to know whether a Christian ward would like to be placed under a Muhammadan or a Hindu guardian. As to the remark whether a minor can be said to have any religious persuasion, I would say that he has the same religious persuasion as his parents.

The amendment was put and lost, five voting for and thirteen against it.

6 P.M.

His Excellency the President:—The next amendment standing in the name of the Hon'ble Mr. Srinivasa Rao falls through as it is identical in terms.

The Hon'ble the Maharaja of Bobbili:—My Lord, I beg to submit that in sub-section (2), it is stated that a female guardian shall be appointed for a female ward. Amongst the Indian ladies there would be hardly any one who could take up the guardianship and keep regular accounts as specified in the following section. You will see, My Lord, that some Eurasian lady may be appointed guardian if the section is left as it is. She will be a stranger and of quite a different religious persuasion. I may be permitted to say if a guardian is a relative he would not only take interest in the ward, but would also carefully look after the moral conduct of the ward and of the other members of the family. I therefore beg to suggest that a near male relative, who may see the female ward according to the gosha system, may be appointed

guardian. My amendment is that the first ten words of sub-section (2) should be omitted and the following substituted :—" A near male relative, who may see the ward according to the gosha system, shall be appointed guardian for a female ward."

The Hon'ble P. Ratnasabhapati Pillai Avargal seconded the amendment.

The Hon'ble Mr. H. M. WINTERBOTHAM.—If this amendment were accepted, the first thing that we should have to consider is who is to be called a near male relative, the next question is what if there is no near male relative, and the third question what if the near male relative is neither able nor willing to accept the office. As I have already shown, the considerations that the Court has to bear in mind in appointing a guardian are most comprehensive. Every *pro* and *con* has to be most carefully considered before the appointment is made. It is clear that this amendment cannot possibly be accepted.

The amendment was put and lost, two voting for and twelve against it.

Sections 27, 28, 29, 30, 31, 32, 33 and 34 were passed by the Council.

The Hon'ble Mr. A. J. YORKE :—I understand that the amendment of which I have given notice is likely to be ruled out of order, and I should be very glad to be informed if it is definitely decided upon.

His Excellency the PRESIDENT :—What amendment are you referring to ?

The Hon'ble Mr. A. J. YORKE :—It is my amendment to section 44. If the amendment be definitely ruled out of order, it will be convenient if I can be informed of it now. I should have thought that it might have been possible to have given notice as soon as the amendment was received if it was out of order on a trifling matter. As a matter of fact, my omission to put in the schedule A was due to the idea that if I sent in a blank form it would give a free hand to the Government to fill in the schedule.

The Hon'ble Mr. EARDLEY NORTON:—I entirely agree with the Hon'ble Mr. Yorke. We both of us drafted the amendment and the omission to put in the schedule was intentional. We thought that the Government would itself frame a schedule and not we, and we sent it in that shape leaving it to Government to fill in the schedule. Even if it is out of order, I hope Your Excellency will relax the rule about six days' notice and allow it to be moved, because it is a proposition in which many of us, both in this Council chamber and outside it, are deeply interested.

His Excellency the PRESIDENT :—As the Honourable Member has asked a question, before I answer it, I would ask him who gave him the information.

The Hon'ble Mr. A. J. YORKE :—The Honourable Member in charge of the Bill gave me to understand it.

His Excellency the PRESIDENT :—I should not rule the Honourable Member's amendment out of order.

The Council then adjourned to 12 o'clock the next day.

M. HAMMICK,
Secretary to Government.

MADRAS : PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

SECRETARIAT FORT ST. GEORGE 29-4-1902

Proceedings of an Adjourned Meeting of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament, 24 and 25 Vic., cap. 67, and 55 and 56 Vic., cap. 14.

The Council met at the Council Chamber, Fort St. George, at noon on Tuesday the 18th day of February 1902.

PRESENT:

His Excellency Baron AMPTHILL, G.C.I.E., Governor of Madras—*Presiding*.
The Hon'ble Mr. H. M. WINTERBOTHAM, C.S.I.
The Hon'ble Mr. J. THOMSON.
The Hon'ble Mr. G. L. ACWORTH.
The Hon'ble Mr. J. E. P. WALLIS (Advocate-General).
The Hon'ble the MAHARAJA OF BOBBILI, K.C.I.E.
The Hon'ble Mr. G. S. FORBES.
The Hon'ble Lieut.-Col. SIR GEORGE MOORE, *Kt.*, C.I.E.
The Hon'ble Mr. H. BRADLEY.
The Hon'ble Mr. A. J. YORKE.
The Hon'ble Mr. A. W. B. HIGGENS.
The Hon'ble Mr. EARDLEY NORTON.
The Hon'ble Mr. H. A. SIM, C.I.E.
The Hon'ble Mr. J. N. ATKINSON.
The Hon'ble S. SRINIVASARAGHAVA AIYANGAR Avargal, C.I.E., Diwan Bahadur.
The Hon'ble Mr. M. HAMMICK, C.I.E.
The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal, Rao Bahadur.
The Hon'ble P. RATNASABHAPATI PILLAI Avargal.
The Hon'ble K. PERRAJU PANTULU Garu.
The Hon'ble G. SRINIVASA RAO Avargal.
The Hon'ble Mr. G. H. STUART.

THE MADRAS COURT OF WARDS BILL.

12 noon.

His Excellency the PRESIDENT :—Honourable gentlemen, before we resume the discussion of this Bill I want to call your attention to some remarks which were let fall by the Hon'ble Mr. Eardley Norton on Monday and which, as they are inaccurate and reflect upon a former Government, are likely to cause a great deal of mischief if they are repeated and quoted in the press and other places. I see that what the Hon'ble Mr. Eardley Norton said was "Will the honourable gentleman allow me to explain ? My point is that the Government changed the ordinary criminal tribunals of Salem for purposes of conviction." Well, gentlemen, this is entirely inaccurate. The facts of the case are—I believe the circumstances to which the Hon'ble Mr. Eardley Norton referred took place in 1882,—that, owing to the very large number of cases which had been committed for trial and which the Sessions Judge could not possibly deal with in addition to his own work, the Government did what has been frequently done in similar cases and appointed an additional Sessions Judge. They selected their best judge, Mr. Wigram, to dispose of them. In the High Court on appeal while some of the convictions were reversed, just as many were confirmed. I hope that, in these circumstances, the Hon'ble Mr. Eardley Norton will qualify or withdraw his remarks.

The Hon'ble Mr. EARDLEY NORTON :—Your Excellency, what I intended to say on Monday,—during the period in question I was in the country, and Your Excellency not—was that the proceedings of the Madras Government of that time created considerable and serious stir, and it was openly alleged that the supersession of Mr. Wilkinson who was the Sessions Judge of Salem was caused by the Government's mistrust of that officer, because they felt that in the majority of cases he would probably acquit the rioters. I have Mr. Wilkinson's authority for saying that he personally resented this

view of the situation and the supersession of himself. What happened was that a special Magistrate was sent down, Mr. McIver, now a member for one of the divisions of Edinburgh, and he was invested with special powers. As Your Excellency stated, Mr. Wigram was imported from, I think Coimbatore, as a special Sessions Judge, and if I recollect rightly had exclusive jurisdiction to try all the rioters. It may be that I am wrong, but I think that I am right when I say that no case of rioting was allowed to be tried by Mr. Wilkinson at all, and the whole of the cases were, as a matter of fact, tried by Mr. Wigram. I had no desire when I last spoke to impute that the Government of the day acted solely for the purpose of securing convictions. I regret if what I had said conveyed that impression. What I had intended to say was that at the time it was openly charged that the change in the magisterial and judicial administration in the Salem district was essentially made for the purpose of furthering that intention. Beyond stating that view, I had no desire to go further. If what I said has been interpreted to mean that the Government created special tribunals for the purpose of convicting, irrespective of any evidence, I can only express my regret that my language should have been so understood and to withdraw everything which may lead to that conclusion.

His Excellency the President:—I accept the Hon'ble Mr. Eardley Norton's explanation.

SECTION 35.

The Hon'ble the Advocate-General:—With Your Excellency's permission, I beg to propose an amendment to this section. Section 20 has given the Court the power in its discretion not to take over a certain portion of the ward's property. It is not desirable to disqualify a person from making such property liable, because if you do that probably in some cases there will be no one to deal with it. So I propose to limit the disqualification attached to the ward by adding to the first paragraph of section 35 after the word "liability" the words "personally or in respect of such property." This section will not then disqualify him in any way from dealing with such property as is not taken over by the Court.

The amendment was put and agreed to.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—I beg to move that in the second proviso be substituted "shall" for "may" and to the end of the proviso be added the words "if it satisfies the conditions prescribed in the first proviso." It will be observed that one disqualification imposed in section 35 on the ward is what is contained in clause (*c*), viz., not to adopt or to give a written or verbal permission to adopt, without the consent of the Court. Clause (*a*) says that a ward shall not be competent to dispose of his property by will without the consent of the Court. There are two provisos limiting his disqualification. The first proviso says:—"Provided first, that the Court shall not withhold its consent under clause (*c*) or (*d*) if the adoption or testamentary disposition is not contrary to the personal or special law applicable to the ward, and does not appear likely to cause pecuniary embarrassment to the property, or to lower the influence or respectability of the family in public estimation." Clauses (*c*) and (*d*) imply that there should be permission of the Court or consent, which usually means, I believe, permission or consent obtained previous to the making of adoption and disposing of the property by will. The second proviso says that even in cases where the previous consent had not been obtained—in many cases it is not possible to be obtained, because the will and adoption are made at the last moment—the Court "may confirm a will or an adoption made, or a permission to adopt given, without its previous consent." That is, by subsequent ratification such adoption and wills become valid. The object of the amendment is that it shall not be discretionary with the Court to refuse permission even subsequent to death if all the conditions mentioned in proviso 1 are satisfied with reference to will or adoption. If the conditions mentioned in the first proviso are satisfied, there is no object in leaving it to the discretion of the Court either to grant or refuse permission.

The Hon'ble P. Ratnasabhapati Pillai Avargal seconded the amendment.

The Hon'ble Mr. H. M. Winterbotham:—I must oppose this amendment. The section, with proviso 2 as it stands, is a very great concession and gives me some uneasiness. For the last hundred years, no adoption by a ward could be made without the previous consent of the Court of Wards. Section 25 of Regulation V of 1804 is my authority for this assertion. I have never heard or read of the provision working

any hardship in any single instance. In our Bill as introduced into this Council, the proviso ran thus :—"No adoption by any minor ward, no written or verbal promise to marry or adopt given by any minor ward, and no testamentary disposition by such ward of his property shall be valid without the previous consent of the Court." We have now given the Court of Wards authority to validate an adoption made without its previous consent. Much wants more, and the amendment now proposes to make it compulsory on the Court of Wards to confirm such adoption. This would evidently encourage the making of adoptions without consulting the Court of Wards beforehand, and this is by no means to be desired. The same argument applies with equal force in regard to wills. A ward should not, as a general rule, make a will without the knowledge and consent of the Court of Wards, and if he breaks the rule it should be with the knowledge that the Court of Wards may disapprove the will and that it will then remain invalid. I submit that the amendment should be rejected.

The Hon'ble C. Jambulingam Mudaliyar Avargal :—The Honourable Mover has, no doubt, mentioned the inconvenience of the old law as it stands at present. Once granting the concession in the form it has been done and taking into consideration the provisions of the first proviso which do not find a place in the Regulation and considering that we have consented to have this proviso, viz., that in certain cases it shall be compulsory on the part of the Court to grant the consent, I can hardly see the difference which can be made with reference to the cases in which the previous consent may not have been given. It is a notorious fact that in this country wills are not made as in England and other countries by persons at a time when they are in the enjoyment of their full health; and it is only when they are in expectation of death it will be found that wills and adoptions are often made—that is at a time when they think that they are not likely to live long. At that time it will be hardly possible to communicate with the Court of Wards and to obtain their previous consent for making the will or adoption. It is in view to meet such contingencies the second proviso was inserted, viz., that even subsequently, an adoption or a will may be validated. What I now desire is that if all the conditions prescribed in the first proviso are satisfied with reference to any will or adoption, there is absolutely no object in refusing to give consent to it, even though it might not have been possible to have obtained the previous consent. In such cases, I submit that the option to give or refuse consent is absolutely unnecessary. The two classes of cases stand on the same footing; and there is absolutely no difference between them. If it is good in one case to make it compulsory that the Court shall not withhold its consent, it equally stands to reason that it shall not withhold its consent if the selfsame conditions are satisfied, even though the previous consent may not have been obtained and the case comes before the Court after the death of the person concerned.

The amendment was put and lost.

His Excellency the President :—The next amendment which stands in the name of the Hon'ble Mr. Ratnasabhapati Pillai falls through as it is identical in terms.

12-20 P.M.

Section 35, as amended and sections 36, 37, 38, 39 and 40 were then passed by the Council.

Section 41.

The Hon'ble the Advocate-General :—With Your Excellency's permission I desire to move an additional proviso to this section. The object is to provide that persons whose claims have been allowed by a decree of the Collector under this section may not be obliged to bring a suit to obtain a decree for the sole purpose of preventing their claims from being barred by limitation. The suggestion, therefore, is that the time should not run for the purpose of limitation from the date when the claim is allowed by the Collector but only from the time of the release of the ward's property from superintendence. This is altogether an optional power given to claimants. It saves them from the trouble and necessity of bringing useless suits, because it may be hoped that long before the property is released from superintendence their claims will have been satisfied. Therefore, I propose that after section 41 the following be added :—"Provided further that in respect of so much of any claim as may be allowed under this section time shall cease to run for the purpose of limitation from the date of the written notice above mentioned until the release of the ward's property from superintendence".

The Hon'ble the ADVOCATE-GENERAL (*rising again*) :—My attention has just been drawn to the fact that the permission of the Government of India may have to be obtained as it involves an alteration of the Limitation Act, and I beg, therefore, to withdraw the amendment.

His Excellency the PRESIDENT :—I am quite willing that it should be withdrawn.

The Hon'ble Mr. H. M. WINTERBOTHAM :—I think it desirable that it should be inserted if you are not offending against any rule.

The Hon'ble Mr. EARDLEY NORTON :—Section 5 of 55 and 56 Vic., cap. 14, says: "The local legislature of any province in India may from time to time, by Acts passed under and subject to the provisions of the Indian Councils Act, 1861, and with the previous sanction of the Governor-General, but not otherwise, repeal or amend, etc."

The Hon'ble the ADVOCATE-GENERAL :—The section says "with the previous sanction of the Governor-General". If we incorporate this amendment, and if the Government of India accepts this amendment, it will be all right, but we cannot be sure of their doing so.

The Hon'ble Mr. EARDLEY NORTON :—May I ask what the objection is?

The Hon'ble the ADVOCATE-GENERAL :—If you do it, it is not according to the Act.

The Hon'ble Mr. EARDLEY NORTON :—Why not?

The Hon'ble the ADVOCATE-GENERAL :—The section contains a direction to the Local Government not to affect the provisions of Indian Acts without the previous sanction of the Governor-General. If we do, and the Government of India overlooks it, no one can afterwards take the objection that the Governor-General's sanction was not obtained. Now that point has been brought to our notice, it is better not to do it.

The Hon'ble Mr. EARDLEY NORTON :—When the time comes for the Bill being passed and for sending it up, Your Excellency may point out that we contravened the technical provisions of the statute and that it was the unanimous desire of all of us that this amendment should be incorporated. In those circumstances, I am sure that the Imperial Government would not oppose this inclusion.

The Hon'ble Mr. G. S. FORBES :—The worst that could happen would be that they would ask us to pass an amending Act repealing the clause.

The Hon'ble the ADVOCATE-GENERAL :—The difficulties appear to be so great that I must avail myself of the permission that Your Excellency has given me to withdraw the amendment.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—There is another objection which strikes me about which I consulted the Hon'ble the Advocate-General. To incorporate this idea would require a more elaborate method of drafting.

The amendment was then withdrawn.

Sections 41, 42 and 43 were then passed by the Council.

SECTION 44.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—I beg to move the following amendment to section 44 which stands in my name: That in clause (1) after the words "should deliver up possession of the mortgaged property" be added the words "and after receiving and approving a scheme of liquidation." The object of my amendment is that before the serious step of dispossessing one of his property is taken by Government, it is necessary that the Government should know exactly the position in which an estate stands. They should make an inquiry into the assets and liabilities of the estate and see whether there is a reasonable probability of the debts being liquidated; otherwise it may happen that under clause (1) of section 57 they may withdraw from the management of the property. That clause runs thus—

"The Court may, with the previous sanction of the Local Government, at any time within two years from the date of the notification published under section 20, release from its superintendence, on a day to be notified, the property of a person who has been made a ward of the Court in pursuance of an order under section 19 without liquidating any of his debts and liabilities or after liquidating some of the debts and liabilities, when the Court is satisfied that it is impracticable to liquidate within a reasonable time all the debts and liabilities or such of them as have not been liquidated and in either case the legal incapacity of such ward shall cease on the date so notified."

So that this contingency or necessity which may arise after the period of inquiry extending over two years to withdraw from the management, may, in a measure, be avoided if the step that I propose be adopted, viz., a preliminary inquiry of the kind suggested into the assets and liabilities of an estate and a decision arrived at as to whether there is a reasonable possibility of the debts being liquidated, otherwise it would be necessary more often than desirable to withdraw from the management on the ground that the Court of Wards or the Government finds that it is impossible or hopeless to extricate the estate from the debts. The provision that I suggest appears in some of the Northern India Acts, for instance in the Jhansi Encumbered Estates Act and also in the Sindh Encumbered Estates Act. In view of the difficulties that may arise and also in view to the desirability to avoid those difficulties, as much as possible, I make this suggestion so that it may facilitate the work of the Court of Wards. I, therefore, beg to commend the amendment to your favourable consideration.

The Hon'ble K. Perraju Pantulu Garu seconded the amendment.

The Hon'ble Mr. G. S. Forbes :—It does not appear quite clear what the Honourable the Mover of the amendment means by his reference to a scheme of liquidation—whether he means a scheme of liquidation as in a bankruptcy under which creditors are to be paid a certain percentage, say four annas in the rupee, or whether he means merely a general scheme for the payment of the debts.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—I mean a scheme as to the feasibility of extricating the estate from the debts.

The Hon'ble Mr. G. S. Forbes :—The Honourable Member referred, however, to the Jhansi and the Sindh Estates Acts, but there is no analogy between those Acts and this Bill, because the scheme of those Acts is to deal with the estates as bankrupt estates in liquidation; estimates being made of the assets, and the Collector or Commissioner drawing up a scheme for paying the creditors so much in the rupee and not in full. This Government, after the fullest consideration, determined that the whole scheme of Act IV of 1899, which is being incorporated in this Bill, should be that every creditor should be paid in full, and unless that could be done the management of the estate was not to be taken up. A scheme of liquidation therefore under the Jhansi and the Sindh Estates Acts would be totally inconsistent with the governing principles of the proposed legislation. If the Honourable Member means simply that a scheme should be drawn up so as to give an idea whether and how an estate is to be disencumbered from its debts, that cannot be done until you have had the fullest opportunity of looking into the affairs of the estate. It is impossible to draw up the report contemplated without knowing all the details of the estate, the condition of the ryots, the terms on which they hold and the possibilities of agricultural improvement, and in many cases it will not be feasible to do this so long as there is a mortgagee in possession. Hence the power which the clause reserves. The amendment of the Honourable Member would be impracticable.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—The Honourable Member that spoke last said that, in order to draw up a scheme such as the one I suggest, it would be necessary that the Court of Wards should have some experience. The period laid down under this Bill is two years, and I do not think that any actual management and taking possession of the estate is necessary for the purpose of forming an opinion as to its assets and liabilities. It is not necessary for the Court of Wards to turn out the mortgagees in possession and to take over charge of the estate in order to ultimately withdraw from the management, when it finds that the position is a hopeless one. When I referred to the Northern India Acts, I did not mean that the laws of bankruptcy should be introduced here. All that I meant was that we should have some idea as to whether an estate will be benefited, if it is taken over by the Court of Wards. If the particular phraseology that I have suggested is not suitable, I would request the learned Advocate-General to suggest some other phraseology to convey my idea and to make it possible for Government to institute a limited inquiry and satisfy itself whether there is a reasonable chance of the debts being liquidated. If the wording that I have suggested is objected to, my amendment may be altered somewhat as follows :—" After satisfying itself as to assets and liabilities, the Government may make a declaration directing the Court to take possession thereof ".

The amendment was put and lost.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—I beg to move the following amendment—that in clause (1) be omitted the words "the dispossession of the incumbrancer shall not deprive him of any summary powers, etc.," up to the end of the paragraph, and after clause (2) the following be inserted as a separate paragraph:—

"The dispossession of the incumbrancer under sub-sections (1) and (2) shall not deprive him of any summary powers which he would have had under the Madras Rent Recovery Act, 1865, for the recovery of arrears of rent due to him at the date of his dispossession."

The Hon'ble Mr. H. M. WINTERBOTHAM:—I am willing to accept it on behalf of Government.

The amendment was put and agreed to.

The Hon'ble G. Srinivasa Rao Avargal withdrew the following amendment on the ground that his purpose would be satisfied by a later amendment which was set down against the name of the Hon'ble P. Ratnasabhapati Pillai Avargal.

"That section 44 be so modified that the possession of the mortgagees with possession be not disturbed except by an adjudication of civil courts."

12-40 P.M.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—I beg to move the following amendment:—That in the last paragraph be omitted the word "declare" and be substituted the words "publish in the District Gazette." All that I want is that some definite mode of publishing the information may be adopted. In my opinion the best way to do it is to publish it in the District Gazette. In connection with this, I should like to point out that, under the Transfer of Property Act, when a mortgagee takes possession of a property, he is bound to render an account of the receipts and disbursements to the mortgagor; and when the mortgagee is turned out and the Court of Wards takes the position of the mortgagee, I say the same obligation to render an account of the receipts and disbursements rests on the Court. Section 76 of the Transfer of Property Act says "When, during the continuance of the mortgage, the mortgagee takes possession of the mortgage property, * * * he must keep clear, full and accurate accounts of all sums received and spent by him as mortgagee, and, at any time during the continuance of the mortgage, give the mortgagor, at his request and cost, true copies of such accounts and of the vouchers by which they are supported." The principle enunciated here may be adopted with advantage. If the mortgagee was bound, if he was in possession of the estate, to render an account of its receipts and disbursements to the mortgagor, then when the mortgagor takes possession or assumes possession from the mortgagee, the obligation attached to the mortgagee is transferred to the mortgagor, who in his turn is bound to render accounts. We might go the length of saying that the mortgagee in this circumstance is entitled to true copies of the accounts; but I indicate a simpler method that the Collector should publish in the District Gazette an account of the nature indicated in this paragraph. I do not see what reasonable objection there can be for this. The section, as it stands, lays the obligation on the Collector and I only indicate a proper method which a Collector might with advantage adopt.

The Hon'ble Mr. G. S. FORBES:—I beg to oppose the amendment. The Honourable Member quoted section 76 of the Transfer of Property Act which refers only to the method of preparing and giving copies of the accounts, but the Honourable Member wants the accounts published. Why the private affairs of these proprietors should be published in the District Gazette, I cannot understand.

The Hon'ble Mr. H. M. WINTERBOTHAM:—I beg to oppose the amendment on another ground. The District Gazettes are already overburdened by the publication of all sorts of matter. This is not a matter of general interest, but is one which interests the incumbrancer only and perhaps a few friends who are interested in his behalf. He can always obtain a copy of the Collector's declaration under Board's Standing Order No. 173 by applying for it to the Collector or the Court of Wards. On the general ground that the mass of matter requiring publication in the District Gazettes is already inconveniently great, I oppose the amendment.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—In answer to the Hon'ble Mr. Forbes I wish to say that the matter ceases to be private, the moment the Court of Wards takes possession of the property. The object of this section could not be better served than by publishing the abstract statements in the Gazette. As regards

the observation of the Hon'ble Mr. Winterbotham that the District Gazette is already overburdened, I would point out that it is overburdened by the publication of a lot of matter which is absolutely useless to the public. If the statement of accounts is published, it will serve a useful purpose to all parties concerned. The mortgagee who has been dispossessed will be in a position to scrutinize the accounts and to make his representations to the Court of Wards, if there are any inaccuracies in the accounts or improper items of expenditure.

The Hon'ble Mr. J. THOMSON :—Why should he not be furnished with it?

The Hon'ble Mr. H. M. WINTERBOTHAM :—We are bound to give it to him. If it will satisfy the Honourable Member and if His Excellency has no objection, I am prepared to agree to the following amendment :—" A copy of such declaration shall be furnished to the dispossessed incumbrancer on application free of charge."

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—I accept that modification in lieu of my amendment.

The Hon'ble Mr. H. BRADLEY :—I submit that " free of charge " is contrary to the schedule of the Court Fees Act, because copies furnished by public officers on application must be stamped.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—There are various official documents that are given free of charge.

The Hon'ble Mr. H. BRADLEY :—If he does not apply for it, he can get it free of charge.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—Then we can leave out the words " on application."

The amendment was accordingly altered by the omission of the words " on application," and then it was put and agreed to.

1 P.M.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—I beg to move that the words " the net annual rents and profits realized from such property," be removed and the words " the gross annual rents and profits, the several items of expenditure, and the net proceeds " be substituted. The object of the mortgagee concerned is to know exactly what the income and expenditure is and also the net profit which becomes available for payment to him. If full information as regards the total receipts and expenditure is not given, and if only the information that is contemplated by the clause, as it stands, is given, viz., the net income and profits, it will be perfectly useless to the party concerned. If he is to take any action upon it and make a representation to the Court of Wards or the Government, he must be in possession of full information that may be necessary and that object will be served if the statement contains the gross receipts, and the several items of expenditure.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—I beg to second the amendment. The chief use that would be made of a statement like the one which my honourable friend suggests is that the dispossessed mortgagee can study the heads of expenditure and if he thinks that any item of expenditure falls too heavily on the estate and that it could possibly be reduced, he can make a representation to the Court of Wards with a view to obtain an alteration in future. It certainly would not affect the past expenditure nor would it call into question the statement of rents, profits and expenditure just prepared, because the subsequent words " shall be conclusive " would be conclusive of any such dispute. If the dispossessed mortgagee has such information, he will be right in making the representation to Government or the Court of Wards that for the future any particular item of expenditure might be reduced to reasonable limits and if the Government should deem it advisable and agrees in that view, it might give directions to have the suggestion carried out. If he is not given that opportunity, the expenditure might go on for any length of time without any alteration being made and without the matter being brought to the notice of Government. It is in that way the statement now suggested would be an improvement. The statement given under the Bill will be sufficient to show what he is going to get at the end of the year, but it will not give him enough materials to suggest how the expenditure could be reduced and how the income could be improved. I see absolutely no harm in granting this request. I might also point out that, under clause (4), the incumbrancer dispossessed under the previous provisions shall, subject to the provisions of section 42—now section 41—be entitled to recover his money with

interest, together with any money which he may be legally entitled to add to the principal money on the security of the property mortgaged and of the rents and profits arising or accruing therefrom. The section which was enacted in 1899 vouchsafed to the incumbrancer the whole of the net profits of the property of which he has been dispossessed. That being so, we should allow that man to know how much income has been derived and what expenditure has been incurred and what profits had been realised. There will be no difficulty about giving such a statement as the one asked for. It need only give the total amount of receipts and the principal heads of expenditure, such as management, upkeep of establishment, the feeding of the zamindar and the marriage or upanayanam of the zamindar, etc. I think the word "items" may be altered into "heads" of expenditure.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—I agree to that.

The Hon'ble Mr. H. M. Winterbotham:—You will have to put in the words "realised from such property"; and I also think that the word "balance" would be better than the words "net proceeds".

The Hon'ble P. Ratnasabhapati Pillai Avargal:—I accept the alteration. The words to be substituted are "the gross annual rents and profits realised from such property, the several heads of expenditure and the balance".

The Hon'ble Mr. H. M. Winterbotham:—I am prepared to accept that amendment as amended.

The amendment was put and agreed to.

The Hon'ble the Advocate-General:—So far there has been no mention of gross receipts or expenditure, and so it will be necessary to indicate that such declaration shall be conclusive on matters therein contained and the section will have to be altered with that view. I would therefore move for the omission of the words at the end of section 44 "amount of rents and profits arising or accruing from such property" and the insertion of the words "statements therein contained".

The Hon'ble Mr. G. L. Acworth:—Is not the word "profits" unnecessary in the section? There may not be any profits at all.

The Hon'ble the Advocate-General:—"Rents and profits" is a stock phrase.

His Excellency the President:—The Honourable Member is speaking as a planter.

The amendment was put and agreed to.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—I beg to move that the following paragraph be added after the last paragraph in section 44: "Notwithstanding anything hereinbefore contained, only the charges which are connected with such property and are incidental to its management shall be deducted from the gross rents and profits, and the net amount shall be paid to the incumbrancer concerned." But for this change or modification which I seek to introduce into the Bill, under the provisions of section 33, the charges connected with education, residence and marriage and similar things which are not pertinent to the management of the property of the ward concerned will be debited against the estate, and thereby the mortgagee will suffer. I do not think that that will be a reasonable procedure to adopt. The mortgagee is to be deprived of his possession of the property and in his place the Court of Wards steps in; and to all intents and purposes the Court of Wards, so far as the management of the property is concerned, is in the place and as representative of the mortgagee. If he had been in possession of the property, only the charges incidental to the management of the property would be deducted and the net proceeds will go to him. What I now seek to provide is that he should have a lien upon the net profits, and the charges which are not connected with the management of that particular item of property should not be debited against it. All the charges mentioned in class I of section 33 are given precedence over the liquidation of debts, and I submit that the modification which I suggest will only do a piece of justice to the party concerned. I submit that marriage expenses ought not to take precedence over the payment of debts. Both according to the Hindu religion and according to common justice the payment of debts ought to be the first duty, whereas the Bill gives precedence to marriage expenditure over the payment of debts. The amendment moved is upon all grounds a reasonable one.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—So far as the principle of this clause which is now advocated is concerned, I am in the fullest sympathy. It is in consonance with the provisions of clause (4) of the section, which says that all the money *minus* the necessary expense would be paid to the mortgagee who has been deprived of the possession of the property. If he were not dispossessed of the property certainly he would not have contributed one pie towards the marriage of the ward or the upkeep of the necessary establishment to keep up the dignity of the man, nor even anything towards the maintenance of the man. Legally he is entitled to every pie derived out of that estate and the ward is not to get any benefit for personal comfort or for maintenance. That is the position which is vouchsafed to the mortgagee who has been dispossessed under clause (4) of section 44 and the Bill proceeds to carry out that intention as far as possible. In doing so, section 33 lays down various items on which expenditure should be incurred. I mention them in the order given. The first item is, "charges necessary for the maintenance, residence, education, marriage and indispensable religious observances of the ward and his family." That is the foremost item of charge that has to be met before any other charge could be met and before any debt is paid. That will fall on the estate managed. It will have to be divided rateably between several creditors of the property taken possession of by the Court of Wards. In doing so, we are not doing abstract justice by following the provisions of section 44, clause (4), under which we are bound to give the mortgagee dispossessed every pie derived from the estate *minus* the expenditure on its management. Suppose the whole property is mortgaged to two different persons, and the Government expected that by adequate and proper management they could redeem the estate and pay all the creditors, then it will be necessary in the public interests that the estate should be saved and the aristocratic family preserved. If that be the intention of Government and if that be the spirit in which the estate is taken over by Government, before it can discharge all the debts, it must see that the zamindar lives and lives in a style more or less befitting his position. Some money must be spent for his maintenance and for the necessary religious observances, not certainly in that lavish style which he would adopt if he were the master, but in a moderate style, in regard to which the Court of Wards would not be liberal. There might be other cases in which the mortgage might not extend to the whole property and yet it might cover a sufficiently large portion of the property so that the proceeds and balance from such property might not be sufficient to meet all other expenses. In such cases it should be necessary to trench upon the income of the property of the dispossessed incumbrancer. It is hard to define what proportion of the income would be sufficient to meet the expenditure of the ward. That depends on various circumstances. It will be impossible to draw a line and fix the responsibility for defraying the ward's expenses in any particular proportion to the income of the property. The practical difficulty that would arise in prescribing a definite portion of the estate which should bear the extra charges of the ward is great. In cases where all the property is mortgaged, the application of this rule must mean that the minor must starve and would not have upanayanam or marriage performed. That would be an absurd condition, if you take possession of an estate which in the opinion of Government should be preserved in the public interests. It is in that spirit that I object to the amendment. The practical difficulties are insuperable in the application of that principle. If some kind of solution can be found in some quarter or another, I should be most happy to support this proposition.

The Hon'ble the Advocate-General:—With regard to what the last speaker has very forcibly urged, I do not know if it might perhaps go some way in the direction of his wishes to insert with His Excellency's permission in clause (4) of section 44 after the word and figure "section 42"—which now becomes 41—the words "subject to the charges specified in class I in section 33 and to expenses necessary to protect the interests of the ward in the civil courts or otherwise." These are the only charges towards which the property of the dispossessed incumbrancer may be made to contribute. That carries out the view that the Hon'ble Mr. Jambulingam Mudaliyar has so forcibly urged.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—What about No. 1 in class II—rent, cesses, etc.?

The Hon'ble the Advocate-General:—It is better to include classes I and II. It is the object of the Court of Wards to keep down the expenditure as low as possible.

The Hon'ble Mr. A. W. B. HIGGENS :—We must keep the last clause of class II. That refers to the upkeep of buildings and the maintenance in efficient condition of estates, which will include the maintenance of irrigation works.

The Hon'ble Mr. J. THOMSON :—You may include class III also, as the upanayanam of the ward is absolutely necessary.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—There is no necessity to go below the third paragraph of class II which refers to expenses necessary to protect the interests of the ward in the civil courts or otherwise.

The Hon'ble the ADVOCATE-GENERAL :—We don't want to put unsecured debts on the same footing as mortgage debts. My amendment will be " subject to the charges specified in classes I and II in section 32, except the liquidation of debts payable by the ward."

The Hon'ble Mr. H. BRADLEY :—This matter, I think, might be left to the discretion of the Court of Wards. The Court has been in existence for something like 100 years and I do not think that it has been accused of making many mistakes. When the whole of its work is devoted to securing economy, this, I think, might be left to the discretion of the Court.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—The Hon'ble Mr. Bradley's observation is beside the point. Nobody says that the Court of Wards is accused of abusing its powers. The question is whether a dispossessed incumbrancer should bear any portion of the expenditure. There is no allegation of extravagance. All that we ask is : Whether this man shall bear any portion of the expenses incurred in connection with the ward and his property, and if so, what portion. With that view, the Advocate-General proposes to limit it to certain charges which he also should bear along with other creditors.

His Excellency the PRESIDENT :—We have the original amendment first proposed, since which tentative and subsidiary amendments have been proposed but not seconded. I propose to take the opinion of the Council on the original amendment in order to clear the ground.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—As the mover of the amendment, I should like to make a few observations with reference to the remarks that fell from several speakers. To charge a dispossessed incumbrancer with the expenses of a ward's maintenance, education and marriage and sundry other things would, I think, be most iniquitous. I may say that this is a legal confiscation of property which belongs to a mortgagee. It is not right to say that these properties which belong to the mortgagee should be diverted and applied to purposes for which, according to the contract, they were not intended to be applied. The Hon'ble Mr. Jambulingam Mudaliyar referred to an extreme case and said : Suppose the whole estate is under mortgage, how is the Court of Wards to proceed ? That is a matter for the Government to decide. When the Government sees that the proprietor has been acting in such a way as to divest himself of the whole of his property, it would decide wisely not to assume charge of the management, and I do not think that we are called upon to legislate for extreme cases. My amendment is a reasonable one. I say that the charges which are incidental to the management of the particular property should alone be charged against it and all other charges incurred on marriage, education, religious ceremonies, etc., it will be unjust to call upon the dispossessed mortgagee to bear. He is entitled to the net profits. The Court of Wards acts as the representative of the dispossessed incumbrancer. And in that view it is bound to hand over the net usufruct *minus* the legitimate charges incidental to the management.

The Hon'ble Mr. H. M. WINTERBOTHAM :—The Hon'ble Mr. Jambulingam Mudaliyar put a hypothetical case but we are face to face with a real case. The Karvetnagar zamindari which is now under management of the Court of Wards is in the position which the Hon'ble Mr. Jambulingam Mudaliyar put before the Council. The whole estate with the exception of a few unimportant villages was in the possession of usufructuary mortgagees, and the Court of Wards was wholly without income except such income as is derived from the property of the dispossessed incumbrancers. Therefore, in order to keep the proprietor alive, the Court of Wards must be allowed to spend something out of the income of the property of which the incumbrancers have been dispossessed.

The amendment was put and lost.

His Excellency the PRESIDENT :—Now I leave the matter to be settled between the Advocate-General and the Hon'ble Mr. Jambulingam Mudaliyar.

1-45 P.M.

The Hon'ble the ADVOCATE-GENERAL :—The words that I proposed to add are "subject to charges specified in classes I and II in section 32 excepting the liquidation of debts payable by the ward". That reserves to the dispossessed mortgagee his preferential right to payment over other creditors.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—The section, as it is, would be better.

The Hon'ble the ADVOCATE-GENERAL :—I think I had better propose the amendment.

The Hon'ble K. PERRAJU PANTULU Garu :—This amendment makes matters worse. As the Bill now stands, the liquidation of debts comes after rent, cesses or demands due to any superior landholder in respect of any land held on behalf of the ward. If the proposed amendment is to prevail, then out of the usufructuary mortgage property should come the charges for the maintenance in efficient condition of the estate buildings and other immovable property and the suitable upkeep of the furniture, equipage, live-stock and other movable property belonging to the ward. That is to say, the mortgagee is to be concerned not only with the preservation of the estate mortgaged to him but also with the preservation of the entire paraphernalia of the whole estate. If all these charges are to be deducted and only the balance is to be paid to the mortgagee, there will be considerable injustice done to him. As the section now stands, the expense incurred on the education, residence and the marriage of a ward is to be deducted, and only the balance will go towards the payment of debts. It is inequitable to give precedence to these other charges.

The Hon'ble the ADVOCATE-GENERAL :—The only reason why I did not exclude the last paragraph in class II referring to the maintenance in efficient condition of the estate, etc., is that the expenses on irrigation works are absolutely necessary. It cannot be supposed that the Court of Wards will spend the mortgagee's money in generally beautifying the ward's place or anything of that sort. I do not think there is any danger that, under the amendment which I have proposed, the money will be frittered away on unnecessary expenses. But there are some expenses under the last paragraph of class II which are absolutely essential to make the property as productive as possible. I do not think that there is danger of this power being abused by the expenditure of money on what I may call unproductive works.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—With reference to the observations just made I have no fear that the Court of Wards will lavish money in beautifying the ward's place. Apprehension might be expressed that the ward might be underclothed and underfed. If irrigation improvements and other improvements are to be made to the estate, there would be no objection for taking the money from the incumbrancer. If, for example, it turns out that the existing irrigation works of an estate are in a damaged condition, the income from that estate should certainly bear the expenses of repairing those irrigation works with the view of getting more revenue. But that the income should be utilised for the general irrigation and agricultural improvements of the estate—whether that is a justifiable course or not is a matter for doubt. There would be no objection for spending the money on the existing irrigation works. I have no apprehension that the buildings would be beautified or new palaces constructed or money lavished in any such direction. If the last class be confined with reference to the estate taken possession of, the difficulty I feel may be met. I would say the maintenance in efficient condition of the estate, building and other immovable property of the particular estate.

The Hon'ble Mr. G. S. FORBES :—It might be left to the Court of Wards to determine how those charges should be appropriately allocated.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—In practical working that will be the procedure adopted. The charges will be divided among the several properties. But I do not think much will be gained by that. But the whole expense of irrigational and agricultural improvements of the estate must not be thrown upon the mortgagee on the ground that he is benefited by the increased revenue.

The Hon'ble the ADVOCATE-GENERAL:—I do not think that there is really any danger of the evils which the Honourable Member foresees.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—If you omit "and the suitable upkeep of the furniture, equipage, live-stock and other movable property belonging to the ward" that will be all right.

The Hon'ble Mr. EARDLEY NORTON:—I think the suggestion of the Hon'ble Mr. Jambulingam Mudaliyar is a reasonable one. The object of the Bill, as I understand it, is the upkeep and maintenance of certain large estates, and the Honourable the Mover suggests that the zamindar should live comfortably. Personally, I see no necessity why he should. If he is to be kept alive, there is no reason why the Court of Wards should feed him on milk from Vellore and eggs from black Spanish hens. I see no reason why like other and better men he should not submit to the misfortunes brought on by himself. There is no reason why he should be supplied with all sorts of luxuries, not at his own expense but at the expense of the usufructuary mortgagee with whom the contract had been that he should be left in possession of the property. If he is to be kept alive, there is no reason why he should not be kept alive in decency but not in luxury. By class III, section 33, the Court of Wards is providing donations to the bankrupt gentleman at the cost of creditors who are practically to find donations befitting his position.

The Hon'ble Mr. G. S. FORBES:—Section 33 is a general section. He may or may not be a bankrupt so far as that section is concerned.

The Hon'ble Mr. EARDLEY NORTON:—It is clear that the Court of Wards has undertaken to allow this gentleman to keep up his dignity. It seems rather hard that not only should the mortgagee be dispossessed but that he should stand and see the income from his property—from his point of view—wasted upon what at any rate he would fairly consider unnecessary luxuries, for the purpose of maintaining a ward. Personally, I should like to say that I am quite in agreement with the views of my friends here that even in making the expenses of the marriage a charge on the mortgagee's property you are taking a somewhat strong step. I do not know if it is necessary that a ward should marry at all, but if he is going to marry it seems rather hard that he should be married at the expense of his unsatisfied mortgagee.

2 P.M.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—I should suggest that the following words should be inserted in clause (4) of section 44 after the word and figure "section 42":— "and subject to the charges specified in classes I and II in section 32, excepting the liquidation of debts payable by the ward, and the provisions with reference to the upkeep of the furniture, equipage, live-stock and other movable property belonging to the ward."

The Hon'ble the ADVOCATE-GENERAL:—I accept that.

The Hon'ble Mr. A. W. B. HIGGENS:—May I make one observation. With regard to live-stock, we are not going to keep Nellore cattle and things of that sort; but we may have to keep plough cattle instead of letting the lands out to tenants.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—I do not know if the Court of Wards will employ itself in agricultural operations.

The Hon'ble Mr. A. W. B. HIGGENS:—That is our present tendency. In a case where there is a yearly tenancy, we may refuse to give a lease and may carry on cultivation ourselves.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—If we extend the provision to live-stock, we may have to extend it to all kinds of agricultural implements. It will also be seen that live-stock is not limited to agricultural cattle. It might include Nellore cows and English cows. On the whole I think it is better to omit it.

The Hon'ble Mr. H. BRADLEY:—Once or twice the Court of Wards has taken over elephants and the first thing they did was to get rid of them. If there should be horses too, they will sell them. The Court ought not to be restricted in this way.

The Hon'ble Mr. G. S. FORBES:—The words "charges necessary for the management, etc.," in section 33, class I, would probably cover everything.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—If this is carried it leads to an anomaly. The item 3 of expenses in class II is "expenses necessary to protect the interests of the ward in the civil courts or otherwise" That is to say, the

mortgagee is to bear not only the cost of litigation in which he is interested but also the cost of litigation as to property in which he has no manner of interest. It is a hard provision in the case of a dispossessed mortgagee. It will be right if he is called upon to pay charges with reference to property in which he is interested; otherwise this measure will work a great deal of injustice.

The amendment was put and agreed to, fifteen voting for and three against it.

2-15 P.M. At this stage the Council adjourned and reassembled at 3 P.M.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—My next amendment is that the following paragraph be inserted after the last paragraph in section 44:—"Any incumbrancer who is deprived of the possession of the properties mortgaged to him may, if dissatisfied, institute a suit against the ward in a district court within three months from the date of the service of the order referred to in clause (1) of this section for obtaining a declaratory decree that he is entitled to be restored to possession." In the case of lessees, section 45 provides for a Collector making an inquiry into the sufficiency of the consideration for which the lease was granted, and if such consideration appears to be inadequate, he is to give notice to the lessee to pay such additional consideration as may be necessary, or, in default, to surrender the property. In such a case paragraph 2 of section 45 provides "that such person may, if dissatisfied with the said notice of the Collector, institute a suit against the ward within three months from the date of service of such notice in a district court within whose jurisdiction the property comprised in the lease or any portion thereof is situated for determining whether the consideration for the lease was adequate and if not whether the additional consideration demanded by the Collector or what other amount is reasonable." If this concession has been granted according to the Bill in the case of lessees, I ask why a similar concession should not be granted in the case of mortgages, which are only another form of leases. Sometimes lessees are mortgagees and mortgagees are lessees. If the principle is conceded in the case of lessees, it should be conceded in the case of mortgagees also. If a mortgagee thinks that he has a good case to make out that his management has been most economical not only in the interests of himself but in the interests of the proprietor, and the usufruct which he is now able to get only meets his claim for interest and no more—if he is able to show that—why should we prevent him from going to a civil court and showing there that the action of the Court of Wards is unjust and could not be maintained on any grounds whatever. There is absolutely no ground to justify the Court of Wards in depriving a mortgagee of the possession of the estate and at the same time in not allowing him to contest the procedure of the Court of Wards in a civil court. If it can be shown that unfair advantage had been taken by the mortgagee and the usufruct derived from the mortgage exceeded the amount of reasonable interest to which the mortgagee was entitled, the Court of Wards would be justified in applying the provisions of this section by taking possession of the property. But if there are no such grounds whatever for it and if the dispossession had taken place on no justifiable grounds, it stands to reason that the person injured or affected thereby should be allowed an opportunity of placing his claims before a civil court and proving satisfactorily that the action of the Court of Wards was untenable.

The Hon'ble K. PERRAJU PANTULU Garu:—In seconding this amendment, I wish to say a few words. The object of this amendment is that, if the Court of Wards consider that there is any legal or equitable ground for the mortgagee to be dispossessed, by all means let the Court of Wards take possession of the property summarily. But the Court of Wards should give an opportunity to the incumbrancer to show in a court of justice that his transaction was thoroughly fair and just and ought to be maintained. In the first place I would impress upon the minds of the Honourable Members not to be led away by the circumstance that the section is simply copied from the enactment (Act IV of 1899) passed only a few years ago, but consider the effect of the section as it is, which we are now called upon to pass. If a proprietor mortgages his immovable property, he does not merely incur an obligation to repay the money borrowed but he also transfers an interest in the property as defined in section 58 of the Transfer of Property Act. The rights and liabilities of the mortgagor as well as of the mortgagee are laid down in sections 60 to 80. The mortgagee has the right to continue in possession in terms of the contract of mortgage.

On the execution of the conveyance of mortgage, the mortgagor's property stands diminished by the extent of the interest transferred. How can the Court of Wards, to whom the right of management is given for the benefit of the disqualified proprietor from the time of disqualification, seek to manage the property or rather the interest in it, which is in law tantamount to property, which was not the ward's at the time of the Court of Wards' assumption of management and which he had duly transferred at a time when he was perfectly competent to do so? The section gives him, and empowers the Court of Wards to take for him, what did not belong to him. Supposing instead of mortgaging the property, the proprietor sells a portion or the bulk of it. Can that be taken back from the transferee? Why should the owner of the partial interest be in a worse position than the owner of the full interest? If the mortgagee is an offender, the purchaser is a greater offender. The policy of the law always is not to disturb vested rights, but this section seeks to jeopardise rights that have been existing. This section seeks to take away rights secured under the contract law that every man is bound to the terms of the contract unless it is vitiated by fraud or undue influence. It sets at naught the rights guaranteed under the Transfer of Property Act. There is reason to doubt whether the object Government have in view will be achieved by this legislation, which is subversive of the rights of others and which seriously affects the credit of the proprietors. If the proprietor feels the want of money he will be compelled to sell it or allow it to be sold. The position of the proprietors will be worse notwithstanding the intention of Government to apply the provision of law only in public interests. In fact the section says that the object is to preserve an estate. There is no danger that the estate will not be preserved. It is not understood whether the word "preserved" applies to the present owner or to the preservation of the bulk of the property. The possession of the estate by the mortgagee till his debt is discharged will not in any way militate against the object of Government to preserve the estate. I would beg leave to make another suggestion. In the first part of this section the word "mortgagee" is used and subsequently the word "incumbrancer" is used. I think it would be advisable to use the same word throughout.

The Hon'ble Mr. H. M. Winterbotham:—The law, as it stands in Act IV of 1899, gives to Government power to dispossess a mortgagee-in-possession in the case of any estate whatever under management of the Court of Wards. Section 44 of our Bill restricts this power, and says: "When any property of a ward is in the possession of a mortgagee, or any person claiming under a mortgagee, the Local Government may, on being satisfied that it is expedient in the public interests that the estate should be preserved and that such incumbrancer should deliver up possession of the mortgaged property, make a declaration to that effect, and direct the Court to take possession thereof, etc.". The amendment—I hardly know how to take it seriously—proposes that, as soon as the Local Government declares in the exercise of its unusual powers that an incumbrancer should be dispossessed, the person dispossessed should have the right to go to a civil court to set aside the action of the Local Government. It is perfectly clear that the proposal stultifies Act IV of 1899 as it stands, and likewise the law as it is proposed to be amended. The amendment can hardly be taken seriously and must be rejected.

The Hon'ble Mr. Eardley Norton:—A certain portion of the argument adduced in favour of the amendment seems to me to rest upon the inviolability of contracts. I do not uphold the amendment from that point of view. I think the inviolability of contracts is a doctrine which has been to a large extent exploded, and the legislation in England certainly goes far to show that when the public interest is opposed to any question of contract between man and man, the contract must go to the wall. I think that should be our view. I therefore do not support the amendment on that ground. My object is to bring before the civil court the question as to the sufficiency of the reason for which the Government is to interfere. In the first clause of this section it is stated that "when any property of a ward is in the possession of a mortgagee, or any person claiming under a mortgagee, the Local Government may, on being satisfied that it is expedient in the public interests that the estate should be preserved," do certain things. I desire that the issue as to public interests should be decided by the civil court. Holding, as I do, that nothing that has been said in this Council has, in any way, tended to mitigate the opposition of those who think that the phrase "that it is expedient in the public interests" really imports nothing that is satisfactory—those who share that view with me may, I think, consistently, as a matter of logic, support this amendment, the object of which will certainly be to bring to the test before the

courts of this presidency the question as to whether the decision of Government on the matter of public interests is right or wrong. If this amendment be carried, that would be the issue that would be brought before the district court. In that view, I think it is advisable, although I know at the same time it is hopeless—that this amendment should be carried. To dispossess a mortgagee is, I think, a strong thing to do; but I can conceive a situation when, in the public interests, a mortgagee should be excluded from the benefit of his own contract. I am not prepared to leave the decision of that question to the unquestioned arbitrament of the Government or the Court of Wards.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—The amendment that is desired to be carried has not satisfied the preliminary conditions under which it could be carried. My honourable friend Mr. Eardley Norton has pointed out that the only issue that could go before the civil court is whether it was in the public interests the property was taken under superintendence. In order to take that issue for the adjudication of civil courts, it is necessary in the first place to delete in section 44 the words "on being satisfied". That will have to be deleted before making any reference of that particular issue to civil courts. The importation of those words makes it incontestable, that the Government is the referee on whose opinion this particular dispossession should take place; and when once the statute declares, by a special section, that any public functionary is the person on whose opinion a certain thing should take place, the civil court will not have the power and cannot possibly have the power to go behind that opinion, if it is once expressed. I would presently deal with it more in detail in connection with another amendment. I do not wish to discuss the suitability or otherwise of the amendment, but this could not be carried leaving the words "on being satisfied" in this section. If those words are deleted, the question as to whether public interests are served will be a matter for the decision of the court, unless any other person is made to decide it.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—The Hon'ble Mr. Jambulingam Mudaliyar seems to think that the existence of the words "on being satisfied" precludes and ousts the jurisdiction of civil courts. If the legislature says that a certain authority should be satisfied of a certain thing and that authority takes action thereupon, he thinks that the civil courts are shut out altogether. All that I can say is that that is a moot question and that question will probably come on for discussion when we go to section 49. It seems to me, with due deference to the opinion of my honourable friend, that if the Government or any other authority acts under this section, the jurisdiction of the civil court is not ousted. As this question will be debated presently, I would ask the Council to keep its mind open so far as this matter is concerned.

The amendment was put and lost.

The Hon'ble Mr. A. J. Yorke:—I beg to move that the following proviso be added to section 44: "Provided that nothing in this section contained shall apply to any property other than the properties a list whereof appears in schedule A of this Act".

3-30 p.m.

The object of this amendment is to define the scope of section 44 and give it some certain limits. What those limits should be, I do not attempt to lay down, but as an uncontentious way of asking the Government to state what properties will, and what will not, be affected by this section, I put forward a blank schedule, and I earnestly trust that the Honourable Member in charge of this Bill will allow no laziness or haziness to induce him to push this Bill through without undertaking to fill that schedule in. Let me here point out that, from my point of view, there can be no objection to the schedule being open to amendment as time goes on, provided, of course, that such amendments shall have no retrospective effect. My main point is that the extraordinary power to be given by this section—which will enable the Government to disregard the usual rights of private contract and arbitrarily oust a mortgagee from possession of a property lawfully held by him—should not be left an unknown quantity to confuse or even vitiate all calculations whenever a landed proprietor in this presidency may wish to raise a loan. Since this Bill was introduced last year, provision has been made that this power shall only be exercised when the Government consider it in the public interests to preserve and take over any particular estate. As a general statement of policy, that no doubt is good so far as it goes, but for mercantile purposes something more specific is necessary. What a lender wants certain knowledge—or

at least a clear opinion—of, when advancing money, is what the value will be to him of the security advanced upon, in case he has to have recourse to it, and here this Bill introduces into land securities an element of uncertainty not there hitherto. It has been argued, rather untenably I think, that there will in reality be no such uncertainty, because, even if a property is taken over by the Court of Wards, it will be worked to repay the mortgagee concerned. But when considering the *pros* and *cons* of making an advance upon landed security, it is obvious that an investor will be able to form a much clearer opinion of what its value will be to him if in his own possession, should he have to foreclose, than if it is to be seized and worked ostensibly for him by somebody else not under his control, and to be subject to various charges of uncertain extent. It is further obvious that if this uncertainty deters, as it will, cautious investors, who would be satisfied with moderate interest, from lending to proprietors, these, when wanting money, no matter for how good and legitimate a purpose, will have to borrow at higher rates from those who will take any risk at a price. In other words, it will close to zamindars the London money market, which of late years has been gradually opening to them at comparatively favourable rates, and will perforce throw them back on the local money-lender, who rightly or wrongly is deemed to be at the root of the trouble aimed at by this Bill. In my opinion this revolutionary power should never have been taken to oust mortgagees except after paying them off. For why should it be taken? If it is ever expedient in the public interests to intervene in this way to save some ancient estate, then surely the Government would be justified in employing public funds for that, as for any other public purpose, in a direct straightforward manner, paying off just claims and contesting unjust ones by ordinary legal methods. Then the Government would not be open as it is to the accusation of being generous at other people's expense. However that is not the scheme of the Bill, so I confine myself to pressing the mercantile objection to this section, that, as it stands, it will restrict legitimate business and impair the credit of and so damage all proprietors who can reasonably be thought to come within its range. That range should therefore not be left unlimited. It may be absurd to suppose that the Government would ever interfere with the mortgagees in possession of market gardens or coffee plantations, but where at all the Government proposes to draw the line is nowhere indicated, and I submit that, in the public interests, it should be clearly drawn.

The Hon'ble Mr. Eardley Norton :—If the Honourable the Mover of the Bill will, for a moment, forget that I was one of those whom he denounced strongly yesterday as being of the inhabitants of the island with the unpronounceable name that Gulliver has made mention of and if he will remember that I am endeavouring to enlist his sympathies, not as a lawyer, but as the representative of a bank, I hope he will lend, I will not say a sympathetic but, a patient hearing to what I have to say. In spite of what the Honourable the Mover said with regard to the representations made by the mercantile community, those who are their representatives think that they have behind their back a considerable and a respectable portion of that community's opinion, and it is only from that point of view that I rise to second my honourable friend's amendment. In spite of the somewhat severe diatribes hurled against the bankers' memorial, I venture to suggest that they have, as a matter of fact, made good every proposition contained in paragraph 4 of their petition and, as a matter of fact, if this Bill be carried in the form it now stands, the result will be that the credit of proprietors will be impaired and those whom this Bill seeks to make provision for, viz., the heirs of large zamindaris, will not be able, hereafter, to command that commercial credit in the market which they have hitherto been commanding even for the honest and legitimate purposes for which they may require money. I am quite in accord with the view of those who suggest that the harpy crew of dishonest usurers should be legislated against and those who charge usurious interest should have that interest cut down. But I fail to see any provision in this Bill in protection of a man who is an honest lender, acting with honest principles and charging fair interest. Looking abroad at the large number of estates that are held in this presidency on leases of various sorts, and taking into consideration the large number of planters—I am glad to think that my honourable friend who represents the planters in this Council is not inside that number and owns and works his own property—who hold large estates under leases, there is, I think, a real and legitimate grievance in the mouths of those gentlemen who are entitled to say : Our position under this Bill has become most precarious, because, we being lessees under a zamindar, the moment you take over his property

because he cannot manage it, we find ourselves in the position of being ousted from properties which we hold. That is not an illusion; that is one of the direct provisions of the Bill. It is all very well for the honourable gentleman who represents the planters and who is not in the position of being a lessee from a zamindar to suggest that the Bill will not affect planting interests. I know it will. In the zamindari with which alone I have some connection, I know in the Kannivadi zamindari there are European gentlemen who are coffee planters and whose estates comprise portions of land which are under lease from the zamindar.

The Hon'ble the ADVOCATE-GENERAL:—I rise to a point of order. I would like to point out that this has nothing to do with leases. This amendment deals with mortgages.

The Hon'ble Mr. EARDLEY NORTON:—I am perfectly well aware of it. I am only referring to it by way of illustration. I am perfectly well aware that the amendment deals with the subject matter of mortgages, but the principle underlying both is the same. Take it that the coffee planter, instead of being a holder of property as a lessee from the zamindar, holds it by way of mortgage from him. Suppose that he has spent his industry, his money and his time on the property mortgaged to him, what is his position under this Bill?

His Excellency the PRESIDENT:—The Honourable Member must confine his remarks to the amendment before the Council. He is discussing the principles of the Bill.

The Hon'ble Mr. EARDLEY NORTON:—I obey the chair. The question under discussion is whether it is not desirable that persons whose properties are under mortgage should not be scheduled persons to whom this Bill is likely to apply.

His Excellency the PRESIDENT:—That is the question. But the Honourable Member is covering the whole ground of the Bill.

The Hon'ble Mr. EARDLEY NORTON:—It seems to me to be impossible, with great respect to Your Excellency, to speak on this particular amendment without adverting to what seems to be the real averment of the amendment. Under the section, as it stands, mortgagees are in a very precarious position. I understand that my honourable friend who represents the Chamber of Commerce in this Council moves as a banker and merchant to have his interest *quâ* mortgagee protected; and I venture to suggest that nothing can be more desirable than that his interest as a banker and a mortgagee should be protected. With great respect to Your Excellency, it is impossible to discuss that question without discussing the whole policy underlying the clause. But in obedience to Your Excellency's ruling I will only say this much. As the section now stands, it is quite clear that no zamindar and no person acting under instructions from the zamindar can possibly hope to get pecuniary credit in the market either here or in London, if the Bill stands as it is. May I ask the Honourable Members of this Council what would be the position of an applicant in the London market for a large loan? Take for instance the case of the zamindar of Ramnad who has passed away from the jurisdiction of this Bill. Suppose he went to a local bank for the purpose of raising a loan, the position would be that the persons who proposed to lend him the money would become his mortgagees and the moment they became mortgagees they would fall within the provisions of this section. They were hitherto prepared on the security of his property to advance large sums of money to enable the zamindar to recover himself; now, on the other hand, they might, at any moment, be called upon, under the provisions of this Bill, to hand over the property on the application of Government and to surrender their position as mortgagees under the contract. Such a position is absolutely inconsistent with the stability of the commercial credit of zamindars in this country. And is it not obvious that it must create a serious obstacle for all time against the advancing of loans? I do not understand that the Government, in introducing this measure, is desirous to stop the credit of all zamindars. The scope of this Bill is, that where a zamindar is incapable, for reasons assigned in the Bill, from managing his estate, the Government desires to interfere. Suppose before that occasion has arisen, the zamindar has applied in perfect good faith to a person for the advance of certain money required for his needs and a third person in perfect good faith, in perfect honesty and at a reasonable rate of interest, has advanced the money, what is his position under the Bill? He becomes at once *nolens volens* at a moment's notice, liable to be evicted and to be dispossessed of his property, in fact he is

deprived of the whole of his security upon which he made the advances in question. We have heard His Excellency the Viceroy say that he was honest about the desirability of importing English capital into this country. But how is that consistent with the provision under which the Court of Wards is taking this power, viz., that at a moment's notice or with no notice, the mortgagee who, upon the faith of the statement that his security would be intact and that it would remain his, had advanced money, finds his property taken away without any discussion upon the question and himself relegated to the position of an ordinary hypothecatee, not for one or two years but for a period possibly of twenty years? The Bill makes provision for this extraordinary view, following, no doubt, the Civil Procedure Code, that the mortgagee, no matter how honestly and with what good faith he acted, may be postponed for twenty years before he receives any portion of his money in return. Those who believe—and I am one of those—that English capital should come into this country so that local industries may, among others, be developed and that the credit of those who ask for loans should be protected, cannot help feeling that this Bill, if passed into law in the way it is proposed to be passed, will, in spite of all the good intentions of Government, necessarily have the effect of practically depriving those persons who honestly apply for pecuniary help of the power of getting their needs supplied. With regard to the question of the schedule it has been repeatedly said both elsewhere, and in the course of the discussion yesterday by the Honourable the Mover of the Bill and the Hon'ble the Advocate-General among others, that it is the intention of the Government to help those persons who are possessed of large properties, the retention of which properties in their original state is in their view desirable. If that really be so, I cannot understand any reasonable or logical objection to the schedule being now made out, to which the Government shall restrict themselves. If your intentions are really honest—I impute nothing unpleasant—that you desire to help the large landholder who is embarrassed by his pecuniary condition, if it is your view that for political reasons or otherwise the big landholders ought to be protected and their property properly managed, what objection can you have to putting the big landholders into the schedule? That will not injure anybody. It will simply show intending lenders which landholders are liable to be absorbed by the Court of Wards and which not. The amendment would define the security and help the formation of a safe decision. Suppose the Karvetnagar zamindar or the Kálahasti zamindar had not been taken under the protection of the Court and suppose the Karvetnagar zamindar went to local bankers and asked for pecuniary help, if your intentions are sincere what objection can you have to include the Karvetnagar zamindar in the schedule so that the bankers and others may know that the provisions of the Bill are likely to be applied to him and act accordingly on that knowledge? I only take these zamindars by way of illustration and for no other purpose. If their names are not included in the schedule, then the private banker from whom they get pecuniary help will know before he advances the money that they are not of those persons to whom the provisions of this Bill apply. You say you want to assist such men. I say that if you want to assist them you can do so in other ways than by absorption into the Court of Wards. When any zamindar desires to obtain, and as a matter of fact does obtain, pecuniary help on reasonable terms from a corporation, a bank or a private individual, whether it be here, in London or elsewhere, what objection can the Government have in stating that such and such a man shall not fall within the purview of this Bill? That is the request which the Hon'ble Mr. Yorke makes on behalf of himself and on behalf of the mercantile community of Madras. If the section stands as it is, it will make it impossible for persons to help distressed zamindars or landholders. The scope of this Bill is such that any person who owns a house—fortunately I do not—and has thereby an interest in land at once falls within the definition of the word "proprietor" and therefore inside this Bill. Any such man, without any notice, if the Government be so disposed, may find his little or large property absorbed at once into the jurisdiction of the Court of Wards and his honest creditors defeated. If the desire of the Government and the Council be that the commercial credit of these big landholders shall not be impaired, and if the desire of the Government also be that the capacity on the part of banks and other commercial firms to help these people shall not be restricted, then you should make it possible for proprietors who are not to be taken up by the Court of Wards to get credit and also make it possible for those who desire to help them, to give them credit, by stating in the schedule once for all those who are likely to be affected by the provisions of the Bill. My friend here suggests that the schedule may

be changed from time to time. You might make a table of persons to whom the Bill shall apply in the first instance, and from time to time enlarge or restrict the list. If a zamindar who is scheduled comes to a banker and tells him that he is in distressed circumstances and asks him to lend him money, the banker will look at the schedule, and if he finds the zamindar's name in the schedule, he will forthwith show him the door and politely ask him to turn his attention to the Court of Wards. Is it fair, I ask, that honest persons who invest money on honest purposes should be brought within the provisions of this Bill? I am not speaking of the ordinary sowcar, whose mention may raise a smile. I am speaking of gentlemen—there are some respectable gentlemen in Madras of whom it is possible I should think to speak without raising a smile—who may find it very much to their advantage and therefore to the advantage of the Government at large and the State that this schedule should be passed, for they will then, at any rate, have some security before advancing loans of this description. It will be their own fault, if with the schedule before them, they propose to make an advance to any of the persons whose names appear in that schedule.

3-50 P.M.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—I just wish to say a few words on this amendment. As the amendment stands, it is entirely in accordance with the principles adopted in section 44. It does not raise any quarrel as to the section proposed, it does not denounce the position taken up by Government with regard to mortgagees or the circumstances under which they might be dispossessed; all that it wants to do is that, in the interests of the mercantile community, so that they might be proceeding on safe lines when they have to conduct financial transactions, the Government should frame this schedule in order that they might have some idea as to whether they could proceed with their negotiations or not. The amendment does not raise any issue which is repugnant to the principles already adopted, but it simply says that since the words now used in section 44 are not of sufficient clearness, you should inform the merchants and bankers what estates would be affected by the provisions of this Bill, and they should have a list of estates to which this Bill would possibly apply in future. As the Honourable Mover of the amendment remarked, he does not require a full, final and complete list; he suggests that the list might undergo changes, but that such changes shall not have retrospective effect. They want the declaration which might undergo alteration, and which will enable them to embark on mercantile business, without the perpetual fear of being turned out at any time for causes which they could not possibly judge. I could hardly see any reason why a table like the one suggested should not be framed. The amendment presents a blank schedule and asks the Government penitently to fill it up with such names as it thinks proper, and they say they will abide by it. The amendment that is proposed, the way in which it is put forward, and the protection that is sought is so humble and sincere, that I could hardly see any objection to accept this amendment, seeing that it is in accordance with the principles adopted in this Bill.

The Hon'ble K. PERRAJU PANTULU Garu:—Not only in the interests of the mercantile community but also in the interests of the proprietors themselves, I think this amendment is advisable. The proprietors will know whether the protection afforded by this section will be extended to them or not, and there will be some definiteness so that the public may understand as to what estates there is the probability of the rights secured under the general law being set at naught, on the contingency arising out of the proprietor's disqualification to manage his property. If the object of Government is to preserve ancient estates for public interests, as I have no doubt it is the object, it cannot, in any way, be frustrated by appending to the Act a schedule of the estates as to which these provisions in the Bill will be applicable. As my honourable friend just pointed out, as the Bill now stands, its provisions apply to every species of immovable property.

The Hon'ble G. SRINIVASA RAO Avargal:—The request made in this amendment is very simple and sincere and does not involve the Court of Wards in any difficulties. All that it desires to see is that the number of estates, to which the provisions of this section would apply, should be mentioned in a schedule. The preparation of the schedule is not to be done by the gentleman who moves the amendment, but he leaves the whole making of the schedule to the Government and he is prepared to accept the list. It is open to Government to alter the schedule from time to time as to the

estates which are likely to be brought under the Court of Wards in the public interests. If such a list as the one suggested is prepared, it would leave it to the discretion of persons who are to lend money to make their choice as to whether they are to lend or not. I could hardly see any objections to this prayer being granted and I, therefore, support the amendment.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—I would only add that if the principles of this amendment be carried there will be no difficulty in the Government taking power by means of a section to frame a schedule so that when framed it will form part of the Act itself.

The Hon'ble Mr. H. M. Winterbotham:—The amendment is incomplete and is therefore liable to be dealt with by the President under rule 50. The Honourable Member does not suggest what estates should be included in his schedule A, and assumes that Government is in a position to declare off-hand the names of the estates in respect of which it considers it to be in the public interests that they should be preserved by dispossessing the incumbrancers. The preparation of such a schedule would be a task of very considerable difficulty and would postpone for an indefinite time the passing of this Bill which has been already too long delayed. It is really a most invidious and difficult task to draw up on the spur of the moment a list of the estates regarding which Government is ready to declare that they, and no other, are deserving of preservation in the public interests. There are over 800 permanently-settled estates in this presidency. Many of them are very small, but each has its own history, of which we sitting round this table are, for the most part, totally ignorant. It is perfectly impossible even to declare correctly how many of them are impartible. No Honourable Member out of those who have spoken in favour of the amendment has ventured to suggest even a preparatory list of estates which we could include in the schedule. It has been declared that the mortgagees of estates throughout the presidency are in danger of having the sections of this Bill applied to them, and that incumbrancers will be freely ousted and that no zamindar will be able to borrow money for good purposes. The only answer that I can make to that is that you must, as we have been urging all along, put some trust in the Government. Suppose a zamindar to have borrowed money in the London market at a reasonable rate of interest, and that the mortgagees are in possession of the estate,—if this estate comes under the Court of Wards, the first thing that the Government will be bound to consider is whether it is in the public interests that the estate should be preserved and whether it is necessary that the mortgagees should be ousted for this purpose. It may be certainly supposed that, if the money-lenders are respectable bankers, they will take proper measures for the due management of the estate of which they are put in possession, and that they will not disgracefully neglect it, in order that their mortgage debt may accumulate. Unless the mortgagees are grossly mismanaging the property there is nothing to be gained by ousting them, and they need be in no fear of being dispossessed. That is all that I can say in answer to the Honourable Member representing the Madras municipality. The amendment is incomplete and I confess myself that I am perfectly unable, out of the 800 permanently-settled estates, to suggest the list which might be annexed to our Act as schedule A. I believe it to be a matter of extreme difficulty which would indefinitely postpone the passing of this Bill. I would suggest to His Excellency under rule 50 that he should declare that the proposed amendment should not be put to the vote on the ground that it is incomplete. I have, however, no objection to its being put to the vote and, if it is put to the vote, I trust it will be rejected.

His Excellency the President:—I am not inclined to dispose of the amendment in that way. I think there are the strongest possible reasons for rejecting it. I would point out that the Honourable Member would not gain anything if they had a schedule. We should make the schedule as complete as possible to include every estate that could possibly be saved. What would the Honourable Member gain by it? The Council will, therefore, see that this amendment is perfectly futile.

The amendment was put and lost, six voting for and thirteen against it.

Section 44 as amended, and sections 45, 46, 47, and 48 were passed by the Council.

Section 49.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—I move that the whole of his section be omitted. By this section it is proposed to constitute the executive

as the final authority, and bar the jurisdiction of the civil courts altogether. In doing so, the Bill prefers to follow the latest legislation of 1899 in the North-West and Central Provinces, in preference to the provision of law contained in our own Regulation V of 1804, which has been in operation for a century without any injurious results, and also in preference to the Bengal law—Act IX of 1879. Section 6 of Regulation V of 1804 provides that Collectors making reports upon insufficient authority, whereby the inheritors of property shall be deprived of the possession and management of their property, shall be liable to prosecution in the Courts of Adalat either at the instance of the parties injured or of the Court of Wards; and upon proof that such undue reports have been made through negligence or for malicious purposes, awards of damages together with costs shall be granted against Collectors so offending. Section 7 of the Regulation goes on to provide an elaborate procedure for resort to civil courts by proprietors who may complain that they have been unjustly deprived of the possession or management of their properties. The zila judges may be moved in such cases. The zila courts have to hold an inquiry, take evidence, and submit the whole case with their opinion to the Court of Sadr Adalat whose decision is final. It will be borne in mind that all this elaborate system of remedy has been devised for cases of females, minors and lunatics, in respect of whom there may be little or no difference of opinion. But when grown-up adult proprietors are sought to be affected by the new legislation, we are asked to expunge from the statute book all these wholesome and precautionary remedial procedures. One would think that the necessity for such remedies was all the greater, in view of the possibility of mistakes or errors of judgment being committed in the case of adult male proprietors, who may, in consequence, be deprived of the possession of their estates. May I ask what harm has been done by the existing law? We have the experience of a whole century, and not a single instance can be cited of any misuse of its provision. Not a single Collector or other officer has been prosecuted or sued. The Bengal law has been enacted on the same lines. It has been in force for twenty-two years with satisfactory results. It is exceedingly unwise and impolitic in the extreme to make this new departure in legislation. The proposed legislation is retrograde, will create a degree of alarm and insecurity in the public mind, and may become oppressive in its operation. The Select Committee has been greatly exercised in mind by the volume of opposition offered by the public to this novel piece of legislation. The most important and influential opposition has proceeded from Messrs. Arbuthnot & Co., Parry & Co., the Bank of Madras and other bankers. They say in paragraph 6 of their memorial (paper No. 11): "Your petitioners are, however, strongly averse to the exclusion of the civil jurisdiction which, if carried into law, will, they believe, arrest commercial enterprise. It can scarcely be expected that either firms or individuals will undertake the responsibility of large loans if in addition to the opportunity given to the debtor of repudiating, with Government's approval, the security for the loan, they are to be on notice that the usual remedy of recourse to the law is suspended in favour of appearance before executive officials who in fact represent a Court of Wards whose interests are in conflict with and antagonistic to that of the general body of creditors." "We are advised (says the Select Committee) that this section does not practically alter what is now the existing law." In the first place if the existing law is that no civil court can take cognizance of any act of Government or the Court of Wards done in the exercise of its functions imposed by statute, then why, I ask, should this section 49 be enacted. Why should the Court of Wards Act, which is only a very small and minor item in the gigantic statute book of India, take care to repeat the existing law? If the existing law excludes the jurisdiction of civil courts, it is not only unnecessary, but positively objectionable, to lay down that no proceedings taken by the executive under the Court of Wards Act shall be questioned by a civil court. There are various other enactments in the statute book, in which it is not said so. The express exclusion of the civil court in one enactment may mean that in the other enactments in which there is no such express exclusion, the jurisdiction of the civil court subsists. Such legislation will lead to endless litigation, and I certainly think that such legislation is not sound in principle. The reason given by the Select Committee for enacting a provision which is already existing law is untenable. It is not consistent with the sound principles of legislation. The Select Committee says that "the value of the section will thus lie in its operating as a check on litigation which must in the end be fruitless." In other words the section is simply intended to be a warning to those who are ignorant of the existing law. Properly speaking the section

ought to say that whereas the existing law is that no executive act of Government or the Court of Wards done under this Act can be questioned by a civil court, be it known to all to whom it may concern that any litigation undertaken in spite of it will in the end be fruitless. Of course it will be inappropriate to say so in so many words. That inappropriateness has been avoided by solemnly enacting as law a matter, as if it was already not so. These observations I have made upon the assumption that the existing law is what is stated to be in the Select Committee's report. But with due deference to the Honourable the learned Advocate-General upon whose advice the Select Committee has acted, I feel bound to say that the existing law is not so. The Honourable the learned Advocate-General seems to have thought that the law which prevails in England prevails in India also. Whatever may be the law in England, it is not the law in this country.

This question has been most elaborately discussed in Hari Bhanji *vs.* the Secretary of State for India in Council reported in I.L.R. 4, Madras 344. It was a suit on the original side of the High Court in which Hari Bhanji, the plaintiff, sued the Government for a refund of a sum of money levied by the Collector of Malabar as import salt duty under the provisions of the Salt Act XVIII of 1877. The Secretary of State contended that the High Court had no jurisdiction. Mr. Justice Innes who heard the case on the original side decided that the action would lie. The learned judge observed that "*the rule in India as to the responsibility of Government to its own tribunals for the acts of its servants is different from that in England.*" In the course of his judgment, the learned judge referred to the English case of Baron de Bode in which one of the contentions was that a particular class of claims for redress could not be entertained against the sovereign, and quoted with approval the observations of Lord Denman who decided that case. Lord Denman said "*There is an unconquerable repugnance to the suggestion that the door ought to be closed against all redress or remedy, for any wrong whatever.*" The judgment of Mr. Justice Innes in Hari Bhanji *vs.* the Secretary of State went up in appeal before the Chief Justice Sir Charles Turner and Mr. Justice Muttuswami Aiyar. The case was taken in appeal by Government on this very question of jurisdiction in civil courts in respect of its acts. These eminent judges ruled against Government. The judgment of Sir Charles Turner, in which this question has been examined most elaborately and settled, is reported at I.L.R. 5, Madras 273. The learned Chief Justice compares the English law and the Indian law upon the subject, and points out that the Government in India cannot claim the same exemption from the jurisdiction of the civil tribunals which the sovereign in England can. "In *England* the form of procedure permitted to a subject who considers himself aggrieved by an act of the Crown is by petition of right." In India the Government is the successor of the late East India Company. "The *East India Company* was not a sovereign, and the personal exemption from suit which is the attribute of sovereignty did not attach to it." The learned Chief Justice proceeds to observe: "On the assumption by the Crown of the direct government of *British India*, it was provided that persons should have the same suits and remedies against the Secretary of State in Council as they had theretofore been entitled to maintain and pursue against the Company. Consequently, the Secretary of State in Council cannot in this country claim on behalf of the Crown the prerogative of immunity from suit." Now I ask, if Government could be sued civilly for the refund of a tax alleged to have been wrongfully levied by it under the provisions of a statute, why should it not be liable to be sued for wrongful acts done under the Court of Wards Act. There are hundreds of cases in which Government in this country has been successfully sued for wrongs done by it in pursuance of some enactment of the legislature, as the volumes of the Indian Law Reports will testify. In this country, it is only *acts of State* done by the Government in the exercise of the sovereign powers of making peace and war and concluding treaties, which obviously do not fall within the province of the municipal law, that are exempt from the jurisdiction of civil courts. But acts of Government done in the exercise of its powers under the municipal law are liable to be questioned by civil courts. Sir Charles Turner observes: "It appears to us that this position cannot be maintained, and that the decided cases show that in the class of acts which are competent to the Government and not to any private person, a distinction taken is between those which lie outside the province of municipal law and those which fall within that law, and that it is of the former only that in this country the municipal courts in *British India* cannot take cognizance." Now this position is

4-15 P.M.

diametrically opposed to the opinion of the learned Advocate-General. The learned Advocate-General seems to think that if a particular act of Government falls under a municipal law, or in other words is done "within the limits of discretionary powers conferred by statute", it cannot be questioned by a civil court. But the law as laid down by the High Court is that it is precisely such acts that fall within the jurisdiction of civil courts. Before I conclude, I should like to know why Government should feel so ticklish about submitting its proceedings to be scrutinized by civil courts. If they are confident that their officers will always advise them properly, there need be no apprehension of their being taken before a civil court. If, on the other hand, they think that their officers may commit mistakes either consciously or unconsciously, they ought to welcome all possible means to rectify such mistakes. Litigation is no luxury. It is a very expensive and unpleasant affair. Government may rest assured that they will not be unnecessarily harassed by litigation. The existing regulation with its ample provisions for resort to courts of justice will bear testimony to this. There is the speech at the first reading of the Bill of the learned Advocate-General, which advocates the same view. In the course of the remarks made by the Honourable Mover of the Bill yesterday in his opening speech, a reference was made to certain provisions of the Guardians and Wards Act. It was said that under that Act a Collector can be appointed guardian by the district court, and once the appointment is made he stands independent of all supervision by the district court. With all deference to the Honourable Member in charge of the Bill, I should like to point out that the Collector is not independent of the district court.

His Excellency the PRESIDENT :—The Honourable Member must confine himself to the amendment.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—These were the arguments advanced yesterday by the Honourable Mover of the Bill in regard to this clause.

His Excellency the PRESIDENT :—This clause did not come up for discussion.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—The Honourable Mover would bear me out in saying that the provisions of the Guardians and Wards Act were quoted by him yesterday with reference to this section.

His Excellency the PRESIDENT :—I would ask the Honourable Member to be as relevant as possible to the amendment under consideration.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—I only want to make a few remarks by way of reply to the provisions of the Guardians and Wards Act quoted by the Honourable Member. Section 23 no doubt says that a Collector shall be subject to the control of the Local Government, but it does not follow that because there is a provision laid down that the Collector shall be subject to Local Government he shall cease to be under the jurisdiction of the civil court. Section 39 invests the civil courts with the power of removing guardians, and that provision includes Collector-guardians and in that view the Collectors are under the jurisdiction of the district court. Under section 50, the High Court has got power to make rules for the conduct of guardians which includes Collector-guardians also. What I am now attempting to show is that the position assigned to Collectors under the Guardians and Wards Act is not that of total independence of the supervision and control of the district courts. There is the important provision that all orders passed under that Act are open to revision by the High Court. In the face of that provision, we can quite understand why in section 48 it is stated that orders passed under that Act cannot be contested by a separate suit, because there is the machinery provided in the shape of an appeal to the High Court or of resorting to it under its revisional powers. For these reasons, it seems to me proper to omit the whole of this section which bars the jurisdiction of civil courts.

The Hon'ble G. SRINIVASA RAO Avargal :—For the strong grounds given by the Honourable Mover of the amendment, I beg to second the amendment.

The Hon'ble S. SRINIVASARAGHAVA AIYANGAR Avargal :—With Your Excellency's permission, I should like to have one point cleared up in connection with the case which the Honourable Member has quoted. I should like to ask him whether the case quoted by him has any bearing on the provisions of the present section which refers to any act done by Government or even by Government officers in the exercise of discretionary power conferred by the Act. That was not the point involved in that case if I remember rightly, for I have had no recent opportunity of reading the decision.

The point was whether a suit would lie for an act done by Government officers in contravention of the provisions of the Indian Sea Customs Act, and it was decided that such a suit would lie.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—I cannot follow what the honourable gentleman says. I raised this question with reference to a certain observation in the Select Committee's report against section 49: "We are advised that this section, as amended by us, does not practically alter what is now the existing law, inasmuch as no suits questioning acts done within the limits of discretionary powers conferred by statute can be successfully maintained."

The Hon'ble Mr. G. S. Forbes:—The Honourable Member is making a speech.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—I am merely answering the question asked by the Hon'ble Mr. Srinivasaraghava Aiyangar. In the case quoted by me it was decided by the High Court that the acts of Government done within the discretionary powers conferred upon it by statute fall within the jurisdiction of civil courts. As a matter of fact in that case the High Court decided in favour of Government upon the merits, and, while deciding that the levy of the tax by the Collector under the Salt Act was proper, the High Court held that the question was one which a civil court can take cognizance of.

The Hon'ble the Advocate-General:—I ought at once to repudiate the doctrines which have been attributed to me. I have no desire to dictate to any member of this Council what the view of the law should be, but I wish to make clear my own. I have never contended that the jurisdiction of civil courts was ousted in respect of anything that the Government or its officers might do. On the contrary, I have always supposed and still suppose that the principle of British Constitution, which Mr. Dicey has defined as the Rule of Law, applies to India as well as England, that the Government and its officers are not protected in regard to acts done in their official capacity but in excess of their lawful authority. My reading of this section, as it stands, is that if persons under this Act do something which is not authorised by this Act, then this section would not bar proceedings against them, because the act in question would not be an act done in the exercise of any discretionary power conferred by this Act. The case which the Honourable Member quoted from the Madras Law Reports, which I happened to come across the other day, bears out this proposition. The Government had enforced payment of a tax which it had no power under the law to enforce, and the court ordered the refund of that tax. That principle is, on my reading of this section, in no way affected by it. All that it says is: "No declaration made by the Local Government under section 9 or 19 and no act done in the exercise of any discretionary power conferred by this Act shall be questioned in any civil court." The figure 9 in this section should be 15, because a declaration is made not under section 9 but under section 15. The declarations made by the Local Government under the section are with reference to "Women declared by the Local Government to be incapable of managing their property" and "Proprietors declared by the Local Government to be incapable of managing their property owing to any physical or mental defect or infirmity rendering them unfit to manage their property". Such declarations are left by the Act within the discretion of Government. Government might either declare that these people are incapacitated or abstain from so declaring. My view of the law is that if the Government makes such a declaration, that declaration cannot be questioned successfully in a civil court. On this point I prefer the view of the law as enunciated by the Hon'ble Mr. Perraju Pantulu yesterday to that now put forward by the Hon'ble Mr. Jambulingam Mudaliyar. All that can be suggested is that such a declaration might be questioned by alleging that it was made negligently or maliciously. I do not think a declaration could be questioned on such a ground. If it could be, I do not think it ought to be allowed. Suppose the Government makes a declaration without this section, there would practically be no hope of any one being able, as it is, to question it successfully in a civil court. Therefore, I say that this section merely bars useless litigation and it is the same with regard to other acts under this section which are done in the exercise of discretionary authority conferred by the Act. As I read this section, it does not extend the power of immunity in respect of acts—to use Mr. Dicey's words—done by officers in their official capacity but in excess of their lawful authority. Therefore, I maintain that the Select Committee is well justified in saying that it does not prevent any one from bringing an action which could be successfully maintained if it were brought. What, on earth, is the use of bringing useless

actions that could not possibly succeed? On these grounds I say that the section, as it stands, is useful in precluding useless litigation. I do not think it is fair to say that it either infringes the Rule of Law or protects the officials of Government in regard to acts done in their official capacity but in excess of their lawful authority.

4-30 P.M.

The amendment was put and lost, four voting for and thirteen against it.

His Excellency the PRESIDENT:—The next two amendments fall through as they are identical in terms to the one just lost.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—Not mine. I only suggest the omission of a portion of the section.

His Excellency the PRESIDENT:—That is identical in substance to the last amendment.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—It is not identical. The section has two portions. I am not in favour of the omission of the whole section, which means that both the portions should be omitted. My position is that the declaration made by the Local Government under section 9 or 19 should not be questioned; but I only consider that the next portion of the section, namely, "no act done in the exercise of any discretionary power conferred by this Act shall be questioned in any civil court," is objectionable. I therefore submit that the amendment which has been now lost is not in substance the same as the one that I have proposed. My amendment is for the omission of the words "and no act done in the exercise of any discretionary power conferred by this Act". As the last amendment was put, I could not possibly vote for it, because I am not in favour of omitting the whole of the section. The particular aspect of the section in which I view it has not been placed before the Council.

His Excellency the PRESIDENT:—My view does not tally with that of the Honourable Member, but I will not, however, stand in the way of his moving the amendment.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—I am thankful to my predecessor that he has covered all the ground and has left very little for me to say even on this amendment in the limited scope that I wish to move it. Allusion has been already made to the remarks in the report of the Select Committee. To that portion of the report I have already taken certain exception. My objection to the portion of this section which gives exemption for acts done in the exercise of the discretionary power is that it is either unnecessary and therefore a surplusage, or, if it is not so, it is objectionable. You know that if in an enactment the section provides that an act shall be done according to the view or the opinion of a certain body, whether it be Government or any public body and that act is done by that body, and when the opinion is given by that body in pursuance of that enactment, then the act done is unquestionable in a civil court. At the same time there are sections of the statute where, without saying that a particular act shall be done according to the opinion or the judgment or the wishes of any particular body, it is simply laid down that the Government may do such and such an act or the Board of Revenue may do such and such an act; and unless special words are used in the particular section indicating that the opinion or the judgment of a particular body is the guiding basis for the doing of that act, the act done under any particular section simply by the use of the word "may", which is only an enabling one and which sometimes is considered a word of discretion, is not exempted from the scrutiny of the civil courts. Under the operation of this section, these acts are completely out of the jurisdiction of civil courts. It will be seen in section 24 there are the words "as to it may seem fit" and "in the opinion of the Court." In section 25 you will find "the Court may appoint managers for the property, and guardians for the person, of any ward, and may control or remove any manager or guardian so appointed." Absolutely no reason is given in this section, there is no ground given for which the Government or the Court of Wards might dismiss or appoint any manager or guardian. When a manager or a guardian is dismissed, no suit could possibly be maintained, because that section does not indicate any particular ground. It gives absolute power to the authority mentioned there. The proviso of section 27 says: "Provided that the mother of a ward, or any person appointed guardian by the will of a person authorized to make such appointment may be appointed guardian by the Court at its discretion." Then there are similar words in section 36 "as it thinks fit." When such

words or words to the similar effect are added to enabling sections, finality is given to the judgment of the body mentioned therein and no suit can possibly be entertained. That question came up before the Madras High Court. A certain municipal commissioner appointed under the Towns Improvement Act was dismissed for grounds stated in the statute itself. Section 9 of Act III of 1871 contained this provision "The persons so elected shall continue in office for three years, or until their successors have been elected and shall be eligible for re-election. The Governor in Council may, from time to time, accept the resignation of any of the commissioners so elected, or may remove any of such commissioners for misconduct or neglect of duty." Under the powers conferred under this section, the Government removed the municipal commissioner alleging that they believed that the person was guilty of misconduct or of neglect of duty. Mark that this section did not contain words to the effect or of the nature that I have read in several of the sections of the present Bill "in the opinion of, in its discretion, or as it thinks fit." Certain grounds were stated on which the man was dismissed. The matter went up to the High Court who decided that as the section did not contain such words as would be necessary to give a finality to the opinion of Government, the case was cognisable by courts of justice and the courts were competent to inquire whether there were actual grounds for misconduct or neglect of duty and that, unless the Government could prove that, the order of the Government should be set aside. Therefore, in the District Municipalities Act, the words "in the opinion of the Governor in Council" were introduced for indicating that the opinion which should decide the question of misconduct is the Government's opinion. Since then, the matter was set at rest. Where it is the intention of the legislature to make a particular act depend upon the will, opinion or authority of any particular body, that fact must be indicated in the section itself, by using words similar to what I have read from the Bill itself. In the absence of such an indication, it is unquestionable that suits would lie where proper grounds exist. That is the result of the ruling in 7 Madras. That brings me to the question that the provision contained in section 49 in regard to acts done in the exercise of the discretionary power is unnecessary and useless, because every one of these acts in important matters, which it is desirable that the Government or the Court of Wards should do in the exercise of its discretion, has got the words which I have quoted and which give a finality to its opinion. Therefore the provision contained in that section would be a surplusage, if it is the intention of Government that, by introducing these words in this section, it should cover the sections which already make these acts incontrovertible in civil courts. If, on the other hand, it is the intention of Government to give the words contained in this section a more extended meaning, so that they may not only cover those sections in which finality is given by the introduction of appropriate words to acts of discretion, but also such other acts with reference to which there is no such indication, and if this is to be simply an enabling clause, then I say it is *ultrà vires* and going beyond the existing law. That is a proposition which is untenable in the face of the two decisions read by my honourable friend to my right. In this country, the method of going by petition of right is not the rule and, as has been pointed out, the Secretary of State for India has only stepped into the shoes of the East India Company so far as suits are concerned. In this view, the second portion of section 49 is unnecessary. The existing law is well and clearly defined in the Full Bench ruling of the High Court. By enacting a provision such as the one contained in section 49, it will be considered that this section gives a much wider exemption to orders of executive officers done in pursuance of this Act, than what the decision in 7 Madras gives. That is not the position taken up by the Select Committee. There is no intention to widen the sphere of exemption. Since there is no desire on the part of the Select Committee or on the part of the Government of Madras, or on the part of anybody else, to give it a wider scope than what the law already is, I submit that this provision is likely to mislead the public and create mischief, by creating an impression that, inasmuch as the legislature has put in these words, it could not be the same thing as has been expounded by the High Court; otherwise there is no reason why this special provision should be put in in section 49. That would be an error which might lead to serious consequences. If it is the other aspect, there is absolutely no advantage. If this is put in here on the ground of expediency, I can very well understand it. It is not that its existence is defended on grounds of expediency but it is defended on grounds of very flimsy nature. The Select Committee says: "The value of the section will thus lie in its operating as a check on litigation which must in the

4-45 P.M.

end be fruitless." If that is the only object, if there are foolish people, let them suffer. If one or two suffer, others will learn a lesson. Rather than put in a provision which would mislead the public, we should allow these people to rush into court and waste their money. That will be a far better course. Unless there is an enactment barring the jurisdiction of civil courts, that jurisdiction will exist. If this is only declaratory of the existing law, it is liable to be misunderstood, because very few other Acts contain this provision; and where this is inserted, it is specially done in order to bar the jurisdiction of the civil courts. There are various acts of revenue authorities which are put out of the pale of the civil courts, and it is expressly intended that they should be so. But it is not our intention to put out of the pale of the civil courts acts done under the ordinary enabling sections of this Bill. Wherever it is intended that acts of the executive officers should be kept out of the pale of the jurisdiction of the civil courts, proper words have been used whose import it is impossible even for a tyro to mistake. Even a munsif of yesterday could not misunderstand it, because it is such a well-known principle of law. I submit that the existence of this provision is productive of serious harm in the way of creating a misconception as to the reason and necessity for its introduction, because it can never be understood as really declaratory of the well-established existing law. Any lawyer could understand such a well-established law and there is no necessity for any declaration of it in the Bill. The very mention of such a provision in a local enactment would make people believe that it bars the jurisdiction of civil courts in regard to acts which are done with the semblance of doing good to a ward. This is a mischievous and dangerous provision.

The Hon'ble K. Perraju Pantulu Garu:—In seconding this amendment, I have not much to say because the Honourable Mover has dealt with the subject in a comprehensive manner. When an enactment gives discretion to an officer either to do or not to do a thing, no action lies against him for doing the thing in any manner he likes, for he only does what the law allows him to do. But if the conditions which empower him to do the act do not exist, then he will be outside the pale of legal protection. These acts may be *ultra vires* and the persons affected will have a cause of action. Suppose under the Income-tax Act, a Collector imposes income-tax on a person, that person cannot bring a suit for having the income-tax lowered, but if he has no business on which the income is accruable, he has a cause of action. Suppose a municipal body imposes house-tax on a person, if the man has no house he can bring a suit for its cancellation, although he cannot bring a suit that the assessment should be lowered. That is the established law, and I do not understand that the Government means to contravene the existing law in the case of its officers and render them immune from whatever they choose to do. The section, as drafted, is vaguely worded, and gives room for people to think that whatever is done under the Act cannot be questioned. If the Court of Wards should take possession of the property, which does not belong to the ward, then the person who is affected can bring a suit. That is the object of bringing this amendment. If the section is allowed to stand as it is, it is liable to misconception, and as the law is well expounded by the learned Advocate-General, that persons who do things according to their discretion cannot be sued, there is no object in retaining the second part of this section. It is only to avoid that misapprehension that this amendment has been moved.

The Hon'ble Mr. H. M. Winterbotham:—The Honourable Mover is strongly of opinion that certain sections of our Bill are so drafted as to leave it open that acts done in the exercise of discretionary power conferred by it may be successfully questioned by a civil suit. If that be so he has given the strongest possible reasons for retaining the provisions of this section. But I entirely differ from him in thinking that the provisions of the section are in any case superfluous, because, as we have already pointed out, it stops on the threshold litigation, the issue of which may be otherwise doubtful until the litigation has been carried up to the High Court. A lot of time, money and trouble would thus be wasted which the provisions of this section will prevent. The amendment must be rejected.

The Hon'ble Mr. Eardley Norton:—I have always objected to large discretionary powers being vested in the Court of Wards and so I now object to the terms of this section, which debar the acts of executive officers done under the discretionary power conferred by the Bill from being taken before the civil courts. In my view, the section takes powers, very large, very unusual, very retrograde and very dangerous.

5 P.M. The amendment was put and lost, five voting for and fourteen against it.

The Hon'ble the ADVOCATE-GENERAL :—With Your Excellency's permission I beg to move that the figure "15" be substituted for the figure "9" in this section.

The Hon'ble Mr. Winterbotham seconded the amendment.

The amendment was put and agreed to.

Section 49 as amended was passed by the Council.

SECTION 50.

The Hon'ble the ADVOCATE-GENERAL :—Section 50 says: "No suit relating to the person or property of any ward shall be instituted in any civil court until the expiration of two months after notice in writing has been delivered to or left at the office of the District Collector specified in the notification under section 20."

The words "specified in the notification under section 20" are not satisfactory, because under section 47 when a District Collector becomes a decree Collector, his functions under this Act are transferred to somebody else, to another Collector, so that it is necessary to add the following words after the word and figure "section 20": "or the Collector appointed under section 46 as the case may be."

The Hon'ble Mr. Forbes seconded the amendment.

The amendment was put and agreed to.

SECTION 51.

The Hon'ble the ADVOCATE-GENERAL :—A similar amendment will have to be made in the next section also, viz., section 51. I therefore move a similar amendment to this section. This was put and agreed to.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—The amendment that I propose to section 51 which will be section 50 when renumbered is that—after clause (2) be inserted as clause (3) the following:—"The civil court may grant leave for a suit to be instituted by any person, other than such District Collector, Collector or manager, as the case may be, on behalf of the ward after notice to such District Collector or manager and after hearing any objections which he may desire to make with respect to the institution of the suit; and the civil court shall not grant such leave unless it is of opinion that it is for the welfare of the ward that the person proposing to institute the suit in the name of the ward should be permitted to do so." I have just altered the amendment by putting the word "Collector" after District Collector and the words "as the case may be" after the word "manager" on account of the amendment of the Advocate-General having been carried. This amendment I took from section 440 of the Civil Procedure Code which was, itself, introduced by section 53 of Act VIII of 1890, the Guardians and Wards Act. It provides for cases, though they might be few, where a person appointed by a competent authority as guardian might himself be made the defendant in a suit filed in behalf of the ward. It would be obviously inconvenient and difficult, if this provision is not inserted, because the same person will be the defendant and the plaintiff, which is not possible. For such exceptional cases the Guardians and Wards Act introduced this amendment to the Civil Procedure Code. That says "If a minor has a guardian appointed or declared by an authority competent in this behalf, a suit shall not be instituted on behalf of the minor by any person other than such guardian except with the leave of the court granted after notice to such guardian and after hearing any objection which he may desire to make with respect to the institution of the suit, and the court shall not grant such leave unless it is of opinion that it is for the welfare of the minor that person proposing to institute the suit in the name of the minor should be permitted to do so." In all cases it would be a person appointed by a competent authority that will act as the next friend in the suit. I have drafted this amendment exactly on the same lines as the section which has been incorporated in the Civil Procedure Code. The necessity for the amendment is obvious, if you consider that there might be cases in which the person appointed as guardian is the person to sue and to be sued, and according to this Act the persons that can be sued as defendants are manager, Collector or District Collector. In cases where the civil court sees the absolute necessity of permitting another person to sue and of making this officer independent, the necessary permission will be granted.

5-15 P.M. It will be seen in section 54 that it

provides: "No suit shall be brought on behalf of any ward by the Collector or manager, unless authorized by some particular or general order of the Court." It distinctly says that no suits can be brought by persons other than the Collector or manager, without a general order of the Court. If section 51 stands as it is, namely "Every ward shall sue and be sued in the civil court in the name of the District Collector specified in the notification under section 20," it will be impossible to carry out the intention of section 54, namely, the circumstances of another person suing in behalf of the ward. For these reasons, I move this amendment which I have already read.

The Hon'ble K. PERRAJU PANTULU Garu:—I beg to second the amendment. This amendment involves no departure; it simply embodies the principles recognised in the Guardians and Wards Act and in the Civil Procedure Code. In addition to the grounds urged by the Honourable Mover of the amendment, I would add another ground. There may be cases where a District Collector may consider that the chance of success for the ward was not good. But any near relation or person interested in the minor may differ from him and consider that there is a good cause of action for the ward. In that case the Court may give him permission on his undertaking to bear all the costs of litigation, and the civil court when it sees that the next friend has brought a suit on insufficient or improper grounds will make him liable for the costs of all the parties and he may be called upon to furnish security. In order to avoid possible loss to the minor, this amendment is necessary. Further it does not in any way militate against the administration of the minor's property by the Collector; on the other hand, it only enables the Court, when it hears all the parties, probably the Collector also, and finds that there is any real cause of action and it is likely that there are properties which a minor can recover, to give permission to the person who comes forward to bring a suit on behalf of the minor on such conditions as the Court might deem fit to impose. In this light, I can hardly see any objection to this amendment.

The Hon'ble Mr. H. M. WINTERBOTHAM:—In section 8 of our Bill it is provided that the Court of Wards may exercise all or any of the powers conferred on it through the District Collector; and in section 51 we have provided that "every ward shall sue and be sued in the civil court in the name of the District Collector". The object of the Honourable Mover of the amendment is to provide for the contingency of the ward wishing to sue the Collector himself. In respect of this amendment I have first to remark that none of the three Acts in Northern India has any such provision. Section 26 of our Madras Regulation V of 1804 provides that a disqualified person may sue the Collector after the time of disqualification has expired. Section 23 provides that the wards may employ proper agents to prosecute Collectors, guardians or managers in cases of supposed fraud, before the Court of Wards. The decree of the Court of Wards in such cases is to be executed by the district court. Doubtless this provision may have been desirable a century ago before the days of railways, telegraphs and newspapers, though I am proud to say that no prosecution of a Collector before the Court of Wards for fraud has been heard of within living memory. But now-a-days every Collector is under control which can be effectively exercised within a few hours, and in the Collector's liability to departmental punishment we have a better safeguard than the civil suit for which my honourable friend wishes to provide. The Collector receives no remuneration for the work which he does for a ward. He is simply the intermediary through whom the Court of Wards exercises its powers. If he does a ward any wrong otherwise than in the execution of his duty, he is not protected. In any case the ward has his right of action against him as soon as the ward ceases to be disqualified. Now what does the amendment of my honourable friend propose? It proposes that in any case where the Court of Wards and the Government disapprove the bringing of a suit on behalf of a ward it shall be open to any person to move the civil court to grant leave to bring the suit, and thus to involve the estate in litigation of which the Court of Wards does not approve. It is obvious, I think, that the amendment in its present shape cannot be accepted.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—The Honourable Mover of the Bill has not taken into account the contingency of the case suggested by the seconder of this amendment. There may be cases in which some near relative or a friend of the minor thinks that he could successfully litigate to get a property for the minor but in which the Collector or the Court may not be inclined to engage himself. There may be cases in which much advantage to the ward may accrue by

successful litigation and there is no reason why permission should not be given to any relative or friend to bring a suit if he is inclined to pay the cost of litigation. There are very adequate provisions in the Civil Procedure Code for the next friend or relative being punished by the civil court, if he enters into frivolous litigation on behalf of the ward. It would be to the distinct advantage of the minor if this amendment is carried without imagining the case of the Collector being sued. It is a matter of congratulation that no Collector has been sued during the past 100 years for damages. The provision is not necessarily intended for any such cases, though it will meet such a possibility and I hope that such a contingency will never happen. It will also be useful in another direction, namely, that it will be recognizing the general law of the country. I cannot understand the apprehension expressed at every stage and at every minute of some possible danger of suits being instituted against Collector. Civil courts have the wisdom not to administer the law in such a fashion as to bring the estates under the management of the Court of Wards to ruin.

The amendment was put and lost.

Sections 50 and 51 as amended and section 52 were passed by the Council.

Section 53.

The Hon'ble C. Jambulingam Mudaliyar Avargal :—I submit that this section may be omitted, as it is useless. Every one who has an elementary knowledge of law knows that no decree passed in any suit in which the Collector or manager appears as next friend or guardian can be executed against the person or property of the Collector or manager. It must be executed against the property of the ward and that elementary principle is known to every one. This is a surplusage and no further argument is necessary in support of my amendment to omit section 53.

The Hon'ble P. Ratnasabhapathi Pillai Avargal seconded the amendment.

The Hon'ble Mr. H. M. Winterbotham :—I am prepared to accept the amendment. The amendment was put and agreed to.

His Excellency the President :—The next two amendments fall through as they are identical in terms to the last amendment which has been carried.

Sections 54 and 55 were passed by the Council.

Section 56.

The Hon'ble C. Jambulingam Mudaliyar Avargal :—All the amendments of which I have given notice in regard to section 56 are consequential on my amendment to clause (*d*) of section 9 ; but as that amendment was not carried, I beg to withdraw these amendments.

The following amendments were withdrawn :—

In the first paragraph—

(1) Omit "or 16".
(2) In clause (*c*), omit the words "or (*d*)".
(3) Transpose clause (*c*) thus amended as clause (*b*) and clause (*b*) as clause (*c*).
(4) After clause (*c*) thus transposed insert the following :—
"(*d*) The person and property of a ward declared to be disqualified under clause (*d*) of section 9 as soon as it is found by a competent civil court that the disability has ceased or the local Government revoke its declaration that such ward is disqualified."
(5) Alter present clause (*d*) as clause (*e*).

Sections 56, 57 and 58 were then passed by the Council.

Section 59.

The Hon'ble C. Jambulingam Mudaliyar Avargal :—In section 59, which will be section 57 when renumbered, a very important addition was made by the Select Committee to enable the liquidation of debts being made in a proper manner and to enable the raising of capital in chief markets and that addition was "and when for the purpose of discharging such debts and liabilities the Court has raised money on condition that it should retain the superintendence of the property until the money so

raised is repaid, the Court shall not, without the consent of the lender or his representatives, withdraw from superintendence until the money so raised has been repaid." I do wish that money could be raised at cheap rates of interest and foreign capital might be expected to flow in for the purpose of being used for the discharge of debts. But such investors will not have the courage to advance the money, unless they had a guarantee that till the new debt is discharged the Court of Wards will have the superintendence of the estates. That is a very necessary provision which would encourage investors in England to advance money on an estate on the assurance that the estate will be well managed under the supervision of Government. While we give that amount of confidence to the people, we must indicate to what extent it is possible for the Court of Wards to keep up to that promise; and we should not delude them into believing that the Court of Wards will keep it on for ever till the whole debt is discharged, because there is a condition that the Court of Wards might involuntarily be turned out, and then the promises we give by this section would not be fulfilled. It is better to indicate in the section itself under what circumstances it would not be possible to hold on to the promise given here. The conditions under which these circumstances might arise are described in sections 321 to 325 concerning estates. The provisions of those sections relate to decrees which are transferred to Collectors to take up the management of the estates. All those provisions are incorporated in our Bill. Section 324 of the Civil Procedure Code says: "If, on the expiration of the letting or management under section 323, the amount to be recovered has not been realised, the Collector shall notify the fact in writing to the judgment-debtor or his representative in interest, stating at the same time that, if the balance necessary to make up the said amount is not paid to the Collector within six weeks of the date of such notice, he will proceed to sell the whole or a sufficient part of the said property; and if, on the expiration of the said six weeks, the said balance is not so paid, the Collector shall sell such property or part accordingly." There is no option left. The time when this power will be exercised by the Collector—and he is bound to exercise it under section 44—will be at the end of twenty years. If the Collector finds that he is not able to discharge the whole of the debts he shall call upon the judgment-debtor to pay the balance and if he is not able to pay it, he will sell the property and the purchaser gets into possession. That being the state of the law, it is better that foreign investors who are not likely to know the details of the various enactments here, should know under what conditions the Court of Wards will keep up to their promise of the management and superintendence of the estate to safeguard the interest of these foreign investors, and also to indicate under what circumstances it would not be possible for the Court of Wards to continue further. It is with that object I propose the following amendment:—that at the end of the section the following be added:—"Unless the property has been sold away under the provisions of section 324 of the Civil Procedure Code." This point was considered in the Select Committee and I believe the idea was accepted; and there was only some discussion as to the proper form in which that idea should be clothed. I do not know why that idea was not carried out, as I was not present at some of the meetings. In all fairness, it is necessary that investors in foreign countries must know precisely the adequate provisions under which the Court of Wards shall continue the superintendence of the estates for their benefit. The amendment does not incorporate any new or dangerous principle and therefore may be accepted.

The Hon'ble Mr. Eardley Norton:—The amendment seems to be a harmless one. It gives clear notice to the intending investors as to when the security will terminate. The provisions of section 324 of the Civil Procedure Code have been expressly incorporated in this Bill by section 48 which is 47 when renumbered. One of the provisions of the Civil Procedure Code whose protection this Bill seeks says that in case a debt is not closed within twenty years the property is to be sold.

The Hon'ble the Advocate-General:—The object of this section was to help the Court to raise money for the purpose of paying off the liabilities of the estate. The object of this section was that after a scheme had been made for clearing off all the liabilities, and the Court had raised money for that purpose, then the Court was to remain in possession so as to pay off the new loan. I do not like the insertion of the words suggested, not that I object to the effect of them In law they do not add anything. But they are calculated to suggest to the lender that he is liable under section 324 to have the property sold away by an order of the civil court. If any one lends money for the purpose of paying off the liabilities on the estate, he will only

any person under section 9 without a report. Besides the omission of two sections, there are very many amendments that have been carried which I do not remember. Fresh amendments have also been introduced and carried. The omission of these two sections involves the correction of numerous figures throughout the Bill, which must be carefully attended to by the Secretary. Unless the Honourable Members go carefully through the Bill after it is revised by the Secretary, they will embarrass the administration of this Act. I beg further to point out that one of the duties of the Secretary under rule 66, clause 6, is "to prepare and revise the marginal abstracts of Bills and Acts and the headings and arrangement of the chapters and the numbering of the sections thereof".

His Excellency the PRESIDENT:—That clause must be read with rule 53, which says: "When a Bill has been passed by the Council, the Secretary shall revise and complete the marginal abstracts and the numbering of the sections thereof and shall submit it immediately to the Governor for a declaration under section 39 of the Indian Councils Act, 1861, that he assents to or withholds his assent from the same."

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—I beg to withdraw the remarks that I have just made. I still object to the passing of the Bill to-day for the reasons that I have already given. It will be safe if we have another opportunity of closely examining the Bill and looking into its detailed provisions, so that the Bill may be thoroughly accurate. It is better to revise the Bill carefully than to send it with mistakes which will seriously embarrass the administration of the Act.

The Hon'ble Mr. G. S. FORBES:—This Bill has been thoroughly threshed out. Only two sections have been omitted and some verbal amendments have been made, and not one amendment affecting the principle of the Bill has been carried. I cannot see what object is to be gained by delaying the passing of the Bill. I therefore move that the Honourable Member's objection shall not prevail.

The Honourable the ADVOCATE-GENERAL:—I beg to second the motion.

His Excellency the PRESIDENT:—I should like to know what object will be gained by postponing the passing of the Bill.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—If it comes up at a future meeting some verbal alterations might be brought forward with a view to improve the Bill. Beyond that, there will be nothing gained. I think it will be safe and wise to give some short time before passing the Bill into law, considering the large amount of interests involved. We might save the imputation of rushing the Bill through at one sitting, an imputation for which there is no warrant whatever. My own idea is that there was plenty of time given for considering the various provisions of the Bill and for formulating objections. If there is any serious urgency to pass the Bill, that will, no doubt, be a ground to consider the question and I will not place any obstacle or obstruction in the progress of the Bill. In the absence of any such serious urgency, I submit that we will, by postponing the passing of the Bill, avoid the imputation that will, no doubt, be cast upon this Council that it has been unduly rushed through, though there is no reason why that imputation should be made. If we can possibly avoid that, without any inconvenience to anybody or the Court of Wards, there is no reason why we should not delay the passing of the Bill.

His Excellency the PRESIDENT:—I confess that it strikes me that the Hon'ble Jambulingam Mudaliyar's objection is a reasonable one. I think that a little further consideration might give us an opportunity of giving a final polish to the Bill and of detecting any little errors there may be in it. I think the whole Council should have an opportunity of re-examining the Bill and pointing out any defects there may be in it.

The Hon'ble Mr. G. S. FORBES:—In these circumstances I beg to withdraw my motion.

His Excellency the PRESIDENT:—The Honourable Member's objection will therefore prevail.

At this stage an informal consultation was held among the Members as to the date to which the meeting should be adjourned. It was eventually resolved to adjourn the meeting to 3-30 P.M. the following day.

6-15 P.M.

M. HAMMICK,
Secretary to Government.

MADRAS: PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

29-4
FORT ST. GEO

Proceedings of an Adjourned Meeting of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament, 24 and 25 Vic., cap. 67, and 55 and 56 Vic., cap. 14.

The Council met at the Council Chamber, Fort St. George, at 3–30 P.M. on Wednesday the 19th day of February 1902.

PRESENT:

His Excellency Baron AMPTHILL, G.C.I.E., Governor of Madras—*Presiding.*
The Hon'ble Mr. H. M. WINTERBOTHAM, C.S.I.
The Hon'ble Mr. J. THOMSON.
The Hon'ble Mr. G. L. ACWORTH.
The Hon'ble Mr. J. E. P. WALLIS, Advocate-General.
The Hon'ble the MAHARAJA OF BOBBILI, K.C.I.E.
The Hon'ble Mr. G. S. FORBES.
The Hon'ble Lieut.-Col. SIR GEORGE MOORE, *Kt.*, C.I.E.
The Hon'ble Mr. H. BRADLEY.
The Hon'ble Mr. A. J. YORKE.
The Hon'ble Mr. A. W. B. HIGGENS.
The Hon'ble Mr. EARDLEY NORTON.
The Hon'ble Mr. H. A. SIM, C.I.E.
The Hon'ble Mr. J. N. ATKINSON.
The Hon'ble S. SRINIVASARAGHAVA AIYANGAR Avargal, C.I.E., Diwan Bahadur.
The Hon'ble Mr. M. HAMMICK, C.I.E.
The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal, Rao Bahadur.
The Hon'ble K. PERRAJU PANTULU Garu.
The Hon'ble G. SRINIVASA RAO Avargal.
The Hon'ble Mr. G. H. STUART.

THE MADRAS COURT OF WARDS BILL.

3–30 P.M.

The Hon'ble Mr. H. M. WINTERBOTHAM:—I have the honour to renew the motion that the Bill before the Council be passed into law.

The Hon'ble Mr. Forbes seconded the motion.

The Hon'ble Mr. G. L. ACWORTH:—Your Excellency, this Bill has aroused a good deal of interest in planting circles. Though, personally, I think the supposition is incorrect, some of the planters, particularly those who hold land under zamindars, have been afraid that they may be affected by the Bill. I should, therefore, like to give my reasons for giving my vote in favour of the motion. It seems to me that there are two sides to the question—a sentimental and a practical side—and though I do not think that the Government has been very much moved by the former still the sentiment is, of its kind, of a very useful character and should not be disregarded. I am sure that every one must admit that we have in our own English history great names, names which make the blood of every patriot tingle as he reads of their past achievements, and the obliteration of which we should almost regard as a national loss. To my mind it is one of the saddest things when one of these great names either sinks under or dies out through the misfortune of a young man coming into his inheritance at the early age of 21, when he is raw to the world and before he has had time or experience to know how to handle a great inheritance. There have been many instances of this. Human nature is the same everywhere, there are the same pitfalls in the East as in the West for a young man, and here in the East there are great historic names, the disappearance of which would be to India a national calamity; and I think the Government is doing a useful work in trying to preserve these names to the country. I would recall to the recollection of this Honourable Council only

one name which, by the judicious action of Government, has been preserved to the country, and that is Travancore. It is not so many years ago that the finances of Travancore were in such a deplorable condition that, it is said, this Government seriously debated the advisability of annexing the country. Most fortunately it withheld its hand but it induced the then reigning prince to employ that most able of administrators, the late Sir T. Madhava Rao, as his diwan. The effect was marvellous; the finances recovered and a succession of able ministers following in the footsteps of the great diwan have brought Travancore to a pitch of prosperity as may well be the envy of neighbouring States. I do not mean to say that even now there is no room for improvement; but when one compares the State of Travancore at the present moment with the time of which I have been speaking, there is surely no reason to be anxious about the resuscitation of the crippled estates whose owners, incompetent to manage them and in honour and justice merely the trustees for their successors, are, so to speak, taken over by Government, whilst the estates are nursed for the benefit of heirs, or even the living owners, if they should so far return to their right mind as to enable the Government to reinstate them. Nor do I think that the creditors of such estates who lent out their money at fair interest would be in real danger. Now, Sir, I come to the practical side of the question. Capital, as you know, is very sensitive, and it had been argued that should this Bill become law, bankers and others would be unwilling to lend money on these estates. Personally I think otherwise. Capitalists are well aware that Government is only too anxious to see estates develop, and where money is lent out on fair interest for legitimate purposes, improvement in this country would be so rapid as to dispel all anxiety as to the repayment of the money. But where money will not be available for squandering and debauchery, money will be lent out at high interest for the pampering of the vices of young landowners, while the lenders themselves sit complacently, only looking forward to the day when the principal and interest would amount to such a sum as would enable them to sweep the whole possessions of the unfortunate landowner into his net. This is no figurative speech, for I know myself of zamindars in the south whose estates have been passing piecemeal away from them on account of borrowing at usurious interest. The mischief in reality goes a great deal deeper than that, for, when a man is overwhelmed with debt, he becomes unscrupulous and begins to oppress his dependents. It is idle to say that in this country rents are fixed and cannot be raised. It may be so and I am told it is; but there are a thousand and one ways of oppressing a dependent, which cannot be taken hold of and for which the law has no redress; but even were law and justice obtainable, not one tenant in a hundred would dare invoke its aid against his landlord. It has always seemed to me the duty of a Government to consider the greatest happiness of the greatest number and, this being so, I shall give my vote for this Bill.

The Hon'ble Mr. Eardley Norton:—Your Excellency, I feel conscious that in rising for the last time to record my protest against the passing of this measure, nothing that I can say will possibly affect the future of the Bill. I also feel that I shall be treated with somewhat courteous impatience by most of the honourable gentlemen present here, many of whom possibly think that it is a pure waste of time on my part to intervene at this last stage, for the purpose for which I am intervening. But it seems to me I cannot limit my conception of duty to a silent acquiescence in the passing of a measure, to the principles of which I am in the main opposed. I hope, Sir, that you will acquit us, who differ from Your Excellency's Government on a question of principle, of any desire in their addresses to this Council to be influenced by anything approaching personal antagonism to the gentlemen amongst whom we are sitting here to-day. I trust that nothing that I have said will rouse that apprehension, although it has been whispered to me that my speech has, on occasions, touched the bounds of bitterness. If that is so, I will only say that this unfortunate trick of speech must have been acquired in conjunction with the rest of my learned brethren in consequence of our lamentable connection with that prejudiced class of lawyers with reference to whom the Honourable the Mover of the Bill has quoted the authority of Gulliver. I have certainly not been guilty consciously of any intention of saying anything in the least disrespectful of the past or the future performances of the honourable gentlemen who are sitting round this table. I believe, as every one believes, that, as Englishmen, if the power is accorded to them for which they ask leave, they will endeavour to exercise the discretion for which they appeal to the best of their ability, with impartiality and with integrity. At the same time I believe, as

many believe with me, that they will in many instances fall short of their endeavours. They are human, and it is human to err. I am obliged to try and safeguard what I have to say with these preliminary remarks, because I do not wish it to be believed, in any quarter, that the opposition, at any rate my opposition, to this Bill has been influenced by anything but general considerations of right and wrong. While I cheerfully concede to the advocates of the measure the right to consider that their view of the law is on considerations of public policy, and of law and justice, the only safe and just view, I claim for myself the right to state my views, even if they should be unfortunately antagonistic to the opinion of others, with as liberal an allowance in my favour on the question of honesty of purpose. The only possible way in which the advocacy and the attitude of the members sitting on this side of the table could be viewed with suspicion, is upon the supposition that we are influenced by pecuniary considerations; in other words that most of us, unfortunately lawyers, press home our objections as advocates on behalf of clients from whom we have received fees. All that I can say, speaking for myself, is that, I believe, that no Honourable Member would so far debase himself or his position as to dare utter a single word in approval or disapproval of any measure proposed by Government in connection with which he has received a single sixpence from men outside this Council hall. If I protest against this Bill on this last occasion, it is not because I disapprove of the Bill in its entirety but because there are three matters which I cannot allow to pass in silence without laying myself open to the reproach of my conscience and to the censure of my own private judgment. These three questions refer to matters of principle. The first is the unqualified and unlimited discretion which the Government asks for itself; the second is the retention of section 9, clause (*d*); and the third is the complete ousting of the jurisdiction of the civil courts by section 48 of the Bill as renumbered. I am perfectly prepared to agree with the Hon'ble Mr. Acworth when he said that considerations of sentiment must necessarily guide the considerations of all deliberative bodies. It would be impossible to live in this world—no matter what legislation you bring forward—and not to be consciously or unconsciously acted on by considerations of sentiment. I think these are right and proper impulses. If a consideration of this sort has induced the Honourable the Mover of the Bill to come forward for the purpose of protecting those whom he considers to be injured by harpies, all that I can say is that I congratulate him on the courage which underlies the appeal for this particular power. I cannot agree with the Hon'ble Mr. Acworth in his attempted analogy between the cases which he quoted and the cases for which alone this Bill provides. In my view, there is no analogy between this Government coming to the help of a powerful ally like Travancore and asking for powers under this Bill for the purpose of relieving some impecunious zamindar from the results of his own overluxury and debauchery. I am one of those—I do not know if I am speaking with or against the majority of the non-official Members—who go so far in agreement with the Hon'ble Mr. Acworth as to say that perhaps there never was or rarely was in the history of the world a finer instance of unselfishness and sentiment than the rendition of Mysore by the Government of England to the present ruler's ancestors. With that rendition I entirely agree. If the Government is entitled to claim any credit for having come to the relief of the Princes of Travancore, I say that is a credit which the Government is fairly entitled to claim and it will be given that credit most cheerfully. But, what Sir, is the analogy between the Government coming to the rescue of large territorial landholders like the two Maharajas of whom mention has been made and asking for powers for the purpose of helping comparatively petty landholders, who have been disqualified either by their ancestors' vices or their own. There is no analogy between the cases. There, the Government has been guided by large considerations of wide placed dynastic and political reasoning: here it is moved by impulses directed *in personam*. If the Bill had confined itself merely to seeking to take powers for the preservation of estates like Karvetnagar and Kálahasti, I am not sure that I would have opposed it, although I am certainly among those who say that if zamindars choose to dissipate their inheritance, let them. Personally, I am wholly hostile to the suggestion that these gentlemen are worth being preserved. Let them die out. Let their properties pass into worthier hands. That is my personal view. The Government has taken the other view. Repeatedly in the course of this debate and elsewhere, both the Honourable the Mover of the Bill and the gentlemen speaking on behalf of Government have told us that the object of the Bill, in the main, if not chiefly, is to assist large

territorial landholders. One difficulty that I see to accepting this as the true policy of the Bill is this. I cannot fairly reconcile it with the introduction of section 19 in the Bill. If the Bill is really meant to deal only or mainly with large landholders, I cannot understand the intention of Government in introducing section 19—by the definition given in the Bill of the word "proprietor," be he even the smallest landholder, every householder falls within the scope of the Bill. Why is the Bill, framed to assist large territorial magnates in distress, enlarged so as to cast every humble owner of a house within the meshes of the Government net? I will deal shortly with three heads on which I propose to touch. First with regard to the question of discretion. I will ask my honourable colleagues to believe that I do not for one moment suggest that, as soon as this Bill is passed into law, the members of Government and the Court of Wards are going to sit down and deliberately to scheme and perpetrate acts of gross injustice. I do not for one moment suggest it. Mine is a protest which rests upon a question of principle; and the principle is this: no matter how well informed and how honest a tribunal is which seeks to get these powers, a consent to the investiture, with absolutely unqualified powers of discretion, of any tribunal, consisting as it must of human beings limited by human intelligence and open to the impulses and the errors of human passion, is such a surrender of oneself to legislative requests as seems to me both dangerous and impolitic. It is purely on that question of principle that I have ventured to oppose such clauses of the Bill as deal with the assignment to the Government or the Court of Wards of an unqualified discretion. It seems to me all the more necessary, because I am sorry to say that, in spite of the discussion of this Bill, we have heard absolutely nothing said from any quarter which justifies the desire manifested by the Government that it is desirable to give the go-bye to the legislation which prevails on the continent of Europe and in Bengal, to put aside the sheltering powers of the civil courts under clause (*d*) of section 9, and to take upon itself powers which erect it into an assembly removed from criticism, from supervision, from correction. Then we see that, not satisfied with the powers which the previous sections give, under chapter VI, section 48, the Government not merely deliberately shuts out any appeal to a court of law with regard to any declaration made by itself but also with regard to any declaration made by any subordinate, no matter how low or humble in the scale he may be. I venture to suggest that this is a usurpation of powers by the Government and the Court of Wards that will not commend itself to the public at large. Again, I do not suggest that the gentlemen who will be called upon to set its sections in motion, when this Bill is passed into law, intend consciously and at all hazards to do anything which would trespass upon the private rights of private individuals. As I have already said, as English gentlemen they will endeavour, I believe, to do their duty subject to the necessary imperfection of their own human natures. The only question is: can they, with the best of intentions in the world, be invariably trusted to carry out that discretion in all matters, especially when they know that they need not dread a superior tribunal to which an appeal can be made for the purpose of revising the use of the discretion exercised by themselves? The Honourable the Mover of the Bill said that there was really no need for alarm because we have set above this Court on the question of the exercise of discretion in the first place this Government, in the second place the Viceroy, and in the third place the Secretary of State for India. A pretty lengthy experience of something like a quarter of a century in this presidency has, I am sorry to say, proved to me that these tribunals, so far as material redress is concerned, are illusive. I have very rarely seen any intervention by the Viceroy or the Secretary of State for India against any measure in regard to which an appeal has been made from the presidency of Madras. Honourable gentlemen will recall no doubt, as an instance to the contrary, the painful occasion when a senior Member of Council under the direction of Lord Cross was obliged to retire before his time. That was an extreme exercise of authority certainly—an exercise which is not likely to be repeated. If similar circumstances should recur, and a similar intervention of final authority be needed, I do not think we shall be likely to receive much help from the Right Honourable the gentleman who at present fills the chair of the Secretary of State at home. It is not right, therefore, to suggest that we have these tribunals from whom assistance can be got. We ought not to be satisfied with this assurance, in passing this measure, that there are deities above, to whom we can appeal for help or redress. I will not trespass upon the attention of the Council any longer, because, as a matter

of fact, almost all, and I think all, the objections have been threshed out with considerable insistence and industry by the Hon'ble Mr. Jambulingam Mudaliyar, and it is unnecessary to repeat anything of what he said. I cannot, as a matter of minor detail, help feeling that it is unwise that the Court of Wards should be invested with powers with reference to a matter like the marriage of its wards. That is a question, I, for one, think on which the feelings and opinions of native members might, perhaps, have received greater attention. The physical difficulties with regard to any such matter seem to be so preponderating as to suggest that failure and irritation may safely be predicated when the Court attempts to interfere and provide blushing brides for expectant heirs. It is not a pleasant position when I find myself possibly the only one who will record his dissent to this Bill. But on the simple ground of duty to those who sent me here and in vindication of my right of private judgment, I feel I should be deficient alike in political acumen, in courage and in self-respect, if I did not, in spite of my melancholy isolation, insist upon dividing this Council against the passing of a most dangerous measure.

4 P.M.

The Hon'ble K. PERRAJU PANTULU Garu:—My Lord, at this stage it is perhaps unbecoming to detain the Council with any lengthy remarks. I would only make a few observations. The first point that still strikes me is that no case has been made for radically altering the existing law. No Legislative Council moves to action unless a necessity exists. The necessity is to borrow a legal phrase, not proven. In fact, the Honourable Mover of the Bill said that the legislation has "not been undertaken for any instant emergency or pressing need of the moment." It is expressly said to be a legislation for posterity. The Bill professes to consolidate and amend the law relating to the Court of Wards which is mostly embodied in Regulation V of 1804. Notwithstanding its cumbrous phraseology and antiquated expressions in some respects, the Regulation has been nobly serving its purpose for the last century as admitted by the Honourable Mover of the Bill. That Government has thought fit to model the present Bill mainly on the recently enacted North-Western Provinces and Oudh Court of Wards Act and the Central Provinces Court of Wards Act, notwithstanding the great disparity between the conditions and social advancement of those provinces and this presidency, is very regrettable. It is expressly avowed that the Bill is so modelled not only as to satisfy and efficiently deal with the existing needs but also as to cover cases that may rarely occur, and that it is in fact a legislation for posterity. Such policy is not very sound and the Bill cannot but seriously affect the position and social conduct of the individuals that are liable to fall within its scope. The remarkable feature of the Bill is the entire withdrawal of the jurisdiction of judicial tribunals, which the Regulation sought to be repealed expressly preserved in favour of persons considering themselves aggrieved by any proceeding thereunder. There is no justification for the conferring of large and uncontrolled powers on the Executive. The unjustifiable departure from the existing law is altogether unnecessary to carry out the aim of Government to preserve our ancient permanently-settled estates. This special legislation is meant for a particular class, but its applicability is capable of being extended to all. The opposition to this departure has been met with surprise on the part of Government. This does not in any way imply want of confidence in the equitable administration of the Executive Government. People and Government are looking from two different standpoints. Government looks from the standpoint of probability and asks will it ever be done in the way apprehended? People look from the standpoint of possibility and ask what will be the position if it is so done? and complain of the withdrawal of the existing additional guarantees, especially when the scope of the present Bill is very wide and far-reaching and when the existing guarantees have never been abused. From the operation of the Bill even the existing contracts are not saved, though entered into on the faith of the existing law. The Bill came from the Select Committee almost as it had gone to them, without any fundamental alterations whatever. The serious objections urged from different quarters have not been answered except by the assurance that the officers concerned would exercise their powers for public good. While joining in the protest of the Hon'ble Mr. Eardley Norton, I believe, however, that Government will fulfil its pledge that the large unfettered discretionary powers reserved to it under the Bill will only be invoked in rare exceptional cases such as would justify their exercise for the public good.

The Hon'ble G. SRINIVASA RAO Avargal:—Your Excellency, the Bill that is about to be passed into law is a short one extending over 67 sections. Were it not

for the provisions contained in three of these sections, viz., in clause (*d*) of section 9, section 43 and section 48, and perhaps a portion of section 26—as amended—the Bill would be in a position to be passed unanimously. The discussion during the past two days has not convinced me that the three sections, to which myself and a few of the honourable friends have not given our assent, are necessary, or that the principle involved in them is a thing to which we should subscribe. In these circumstances, I beg to submit that I feel it impossible for me to give my vote in favour of the Bill.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—Your Excellency, I feel it necessary, like other Honourable Members, that I should explain on this occasion the vote that I am prepared to give with reference to the motion before the Council, especially considering that, for the past two days, I have in my own humble fashion taken part in passing the various provisions of the Bill, that very few of my amendments the Government were pleased to allow, and a very large majority of them had to fall through owing to disagreement on the part of the Honourable Mover of the Bill. That position has not, by any means, reconciled me to the views of Government, nor have I, in any possible manner, changed my convictions with reference to the various provisions that I have been advocating. I agree in every word that fell from my honourable colleague Mr. Eardley Norton. Considering the position that we hold with reference to those important principles to which he has been referring, it is absolutely impossible to come to unanimity with the views held by Government. But, in spite of that, differing from the position which my honourable colleagues take upon this occasion, my vote would be of a different nature; and that is all the more necessary why I should explain my position, because a feeling of surprise might be felt, perhaps, outside this Council, as to how it is that a person who held uncompromising positions with reference to some of the important provisions of the Bill has come on the third day to give a vote which apparently is different in its nature from the attitude he has held for the past two days. I must at once assure them that it is not by reason of change of conviction in the principles I hold, not by reason of change of belief in the doctrines that I hold as to the position of the civil courts, but it is on account of a different ground altogether. Whether it accords with the views of my friends here or not I do not know, but the view that I have been holding as a doctrine for some years is—that is one of the very important reasons why in the legislation of 1899 I took a most important part in supporting it and forwarding it through the Council—that, in the circumstances of this country and in consideration of its past and present condition, provided we could have a wise, sensible and strong aristocracy, provided that the aristocracy could know and wield its own opportunities properly, the development of this country both morally and materially would be much sooner advanced. With the help of that aristocracy for capital, and the large indent that could be made upon the middle classes and the masses for intelligence and labour respectively, the country could be developed more rapidly than otherwise. That is the creed that I have all along held. Judging from the surroundings, the aristocracy which we have at present has unfortunately dwindled to that despicable condition which has necessitated a legislation of the kind which was passed in the year 1899 and a legislation of the kind which is now going to be passed. Considering, after all, the traditions of this great country, and the kind of aristocracy we have, I have still hopes that a strong effort, a mighty effort, such that this Government alone could put forward, might yet revive that aristocracy, resuscitate that aristocracy, strengthen it and make it a wise and strong body to take its proper position in the social fabric of the country, to take its proper position in the material and moral advancement of the country, helping the onward progress of the country in a way conducive to the best interests of the country. It is that hope, that there is still some chance for this aristocracy, dying and decaying though it may be,—and if left to itself it must reach that inevitable goal of ruin—though others think that these efforts militate very largely against the ordinary accepted notions of justice, yet it is this hope that makes me incline to vote in the manner I am going to do. If at this one chance, and the last chance to be given to this aristocracy, they can know their own interests, if they can realise their proper position, and if they can get lessons of wisdom from their past, and benefit by the kindness, the lavish and liberal kindness of Government, if they could benefit from all these efforts we are making, then the sacrifices that we make, and the sacrifices which the people are making, by reason of the provisions of the Bill which subvert the ordinary course of justice between man and man and introduce novel and uncouth principles of law, all for the benefit of this decaying

aristocracy, these sacrifices will still be sacrifices made for a good purpose. If, on the other hand, the lavish kindness of Government is not heeded, and if this is regarded by the aristocracy simply as a special favour for a specially favoured class, and if we do not find improvement, then we shall, no doubt, regret that we ever took this step at all; but we shall not regret the necessary decline and the utter ruination of that class which we shall then pronounce to be utterly unworthy of this legislation. The Honourable the Maharaja of Bobbili, at a very early stage of the proceedings, the day before yesterday, gave expression in the most suitable and adequate terms, on behalf of the community that he represents, to the thankfulness of that community for the large benevolence shown by Government in this matter. Under this Bill this class gets advantages and is given privileges at the expense of the other classes who are not responsible for the position of that class and who are, to a large extent, innocent. The Bill, in one of its provisions, trenches upon the inviolability of valid contracts, while, in others, it gives the officials who may be entrusted with the working of this Act an immunity from all control by courts of civil justice. That is absolutely unparalleled in the statute book of this country except in certain fiscal enactments and similar Acts, and that is viewed, no doubt, pleasantly by the people for whose benefit they are enacted, but they are provisions at which the people have good ground to feel aggrieved. All this is done in a truly paternal spirit, and I should even go the length of saying that all this is done in a grandmotherly spirit. Holding the views which I do with respect to the important necessity for a good aristocracy for the development of this country, it would still be a sacrifice well made by the people of this country, if, by their kindness and liberality, they could help the aristocracy to come up to a level where they will be of immense use in the development of the country. If this legislation is understood in that spirit, that it is a gift of pure unqualified benevolence on the part of Government, that even in this degenerate condition it has done its best to revive this class, and if they satisfy the expectations of the people and of the Government, they would prove to be an immense benefit to the country. If they realise their obligation and fulfil that obligation, by studying their best advantages and working out their own ideals of self-interest in a manner consistent with help to others, for the development of common interest, then, of course, our object will be gained. Otherwise, we shall be fully responsible for introducing this unique measure. In that view and in that view alone, I have resolved to give my vote to the passing of the Bill, though I have not changed my opinion, in the least, in what I have said during the last two days with reference to the various provisions of this Bill.

The Hon'ble Mr. A. J. Yorke:—Your Excellency, I must regard with disappointment the official opposition to, and the consequent rejection of, most of the amendments to clause (*d*) of section 9, section 43 and section 48 as renumbered. However, I am prepared to vote for the passing of the Bill for the reasons which have been recorded in my memorandum on the report of the Select Committee, viz., that the Bill is an improvement on the state of law existing since Act IV of 1899 was passed. I also sympathise with the object of the Bill in so far as it means the maintenance of ancient estates.

The Hon'ble Mr. J. Thomson:—Now that we are approaching the end of our labour in the matter of this particular piece of legislation, a word is due from Government and from myself (who have had none of the heavy and long preliminary toil it has occasioned) by way of recognition of the value of the deliberations of the Select Committee and of congratulation of the Select Committee and of this Council on the satisfactory and successful issue which has been attained. It was not to be expected that a Bill which continued the nove legislation of 1899, and which demanded a larger trust in Government's discretion and singleness of motive by excluding powers which had hitherto been given to the judiciary to sit in judgment on the executive, should pass unchallenged either in this chamber or with those whose privilege it is to form and declare what public opinion there is in this presidency. One must believe that there was very considerable misapprehension generally as to the possibilities of the application of the Bill, should it become law, and suspicion that the old lines of Regulation V of 1804 were being departed from for reasons which would not bear investigation. No doubt the extension of that Regulation by Madras Act IV of 1899 was calculated to seriously disturb the work and the minds of those who finance the pecuniarily

embarrassed landed proprietors. And, speaking for myself, I do not care to conceal the opinion that that Act was a very serious departure in legislation and a great interference with individual rights as hitherto understood and respected; and Government was peculiarly unfortunate in that the ancient properties to which that Act was immediately applied were as unsatisfactory as could well have been found for an exemplification of the uses for which it was fashioned. Still more unfortunately, from reasons of which Honourable Members will be aware, it has not been possible in the thirty months during which it has been current to give it that force and effect which co-operation on the part of those more immediately concerned would have produced, and we are therefore without that practical experience which we might by this time have been in possession of to help us in our present deliberations. It continues to be urged that the endeavours made to maintain a privileged class are likely to bring about the deterioration of that class and, at any rate, that there are higher purposes to which even a privileged class must bow and appeal in justification of their buttressed existence; and that legislation of the present sort destroys the moral strength, purpose and self-reliance which it should be the desire of the State as of every instructor to develop. Speaking for myself, I am free to confess that in a different continent, another climate, and applied to a race of men that have ever had proper chances afforded them for the development of virtues of the sort indicated, the argument is perfectly legitimate. The east is not the west, and the west was not brought to its present strength in one or two centuries. I need only say that from the point of view of the greatest probable benefit to those whose concern is the State's concern—that is the men themselves and those who are living under them—I would prefer to experiment, in the hope of betterment, with those ancient families that we have rather than accept in their places those who plead thrift and consequent wealth by the careful handling of money as a guarantee for suitably filling the rôle of landlords. From the political point of view, in the present circumstances of India, I entertain no doubt on the subject. Passing to the other aspect of the case, which is the exception taken by the mercantile community to the defrauding of capital of its righteous field for employment in the development of the resources of landed estates or in the tiding of the embarrassed proprietor over those weary times when the hand of the Sarkar is heavy upon him for the realisation of peshkash, I must make bold to say that, in the great majority, if not in all, of the estates to which this Act may be made applicable, the proprietor, if he at all conduct himself as befits his position, has no occasion to be in want of money for necessities, for comforts, for luxuries and for the improvement of his estate. The latter was an especial reason for the permanent settlement of 1802: it is obvious that that intention is frustrated if proprietors are induced or left to burden their estates, so as to put the improvement of them out of their power and so that those who would displace them cannot be expected to have the same monetary ability because they have (possibly) acquired possession at the common market value. Not the least satisfactory prospect which the portion of this legislation which is most objected to presents to my mind is the large probability that the money-lender will perforce take more heed to his lending than he has done in the past, will refrain from supplying the means to indulge in unprofitable expenditure, and will thus aid in the regeneration of the class which Government seeks to protect. As regards those that are not large or ancient estates similar care or concern on the part of Government cannot be expected; but, obviously, it is impossible for Government to declare now or at any future time what the estates are which, when occasion may arise, it may consider worth any such attention. As one who has toiled much under Regulation V of 1804 to improve, conserve, or prevent from absolute ruin estates to which that Regulation has been applied, I can say, truthfully, that it is work that the officers of Government undertake out of no avaricious desire to meddle with other people's work or concern, but only from a sense of duty to the law, to the claims of the country and of the person to be immediately benefited. The labour of managing is great, the responsibility under the present law is also great, and there is small honour or glory to be got out of the transaction, more especially if the ward, when wardship has ceased, plays havoc with the fruits of Government care and industry. I can say, also truthfully, that, unless grave reasons to the contrary existed, it was always sought to leave the estates of incapacitated proprietors to private management. The strange thing has been that the Collector—so great is the trust in him and in the wise and benevolent purposes of Government—will still be importuned to take charge even though he deems charge by

him to be unnecessary. This, I think, is a sufficient answer to those who so persistently assert that Government in the present Bill is exemplifying again what is regarded as a wilful and persistent stretching of its powers or prerogative so as to render itself as independent as possible of the judiciary and to shield the possible wrong-doer. The provisions of the old Regulation had their full reason in the circumstances of the time. The Collector was king of his district, communication with the seat of Government was a matter not of minutes but it might be of weeks, and neither the schoolmaster nor lawyer was abroad on the land. It was then necessary that the vagaries of the local officer should be subject to pains and penalties if he could not justify the exercise of the power and discretion he was, in his solitary position, under the necessity of bringing into action. To-day the Collector is a man of small account, his action and the action of his smallest subordinate are transacted in the face of the fierce light which any and everyone can bring to bear by petition, by telegraph, by newspaper contribution, by local sabha, till there is no iniquity that Government does not know or is not made to know. Far too much has been said and written of the Collector's and of the Collector's subordinates' power to do evil. It surprised me exceedingly to hear the Honourable the Maharaja of Bobbili discourse of the injury that deputy tahsildars and revenue inspectors and the like could do to men of his position and influence; and it gives me occasion to remark, as I have always maintained, that till the people themselves set their faces against extortion—to which absolutely correct conduct on their own part is indispensable—it cannot be hoped that any Government will clear the land of official corruption. I can perfectly well understand the desire that Government should not seek to set itself above the ordinary law of responsibility for acts done and that the responsibility that now exists should not be curtailed or abolished. But I confess I was not prepared to find that so much would have been made at the present day of the advisability of maintaining the archaic law, and am inclined to think that while the benevolent purpose of Government is fully admitted some sort of protest by the non-official world was supposed to be proper or necessary. I do not undervalue, and I am sure Government does not undervalue, the services of the law courts for freedom as for justice, but I say, as has been said already, that the judgment of the Court of Wards and of the Government—though I were not of it—is at least as likely to be correct on a pure matter of fact, such as the physical and mental state of a proprietor, as the judgment of a judicial officer, and that quick and cheap decision is for helpless persons and estates a matter of extreme moment. I will not detain the Council further. It was a matter of grateful and agreeable surprise to me to find how really small the total of the objections raised to the Bill has become; and I am sure that the Council as a whole is indebted to the Honourable Members on the other side of the table who have striven to remedy what in their view are its imperfections or defects.

The Hon'ble Mr. H. M. Winterbotham:—I crave your forbearance for five minutes in order that I may deliver my epilogue on the drama upon which the curtain is about to fall. I shall say no more about the merits or demerits of the Bill; but I should not wish it to be supposed that I am not fully conscious that the Bill, in spite of our best efforts, has in it many flaws and defects. On so complicated a measure complete unanimity of opinion cannot be obtained. In the endeavour to secure unanimity as far as possible, the principle of compromise has to be, and has been, largely worked, and the effect of compromising usually is to mar more or less the symmetry of a draft, and to crowd a measure with provisos and provisions merely inserted with a view to conciliate. On the whole, however, it is my confident hope that the law will be found to work smoothly enough: that the occasion to use its exceptional provisions will rarely arise, and that when they *are* used in future the circumstances will be such as to command general approval. The Court of Wards will in the meantime continue its beneficent work without any sort of revolution or change of practice. The only change is that what it does will no longer be devoid of legal sanction. I venture to express the hope that certain remarks which I made in chaff regarding those who follow the honourable profession of advocate may not have been taken seriously by any of my honourable and learned friends opposite. Many of my nearest and dearest relatives—father, brothers, cousins, nephews, of whom I have good reason to be proud—have been, or are, lawyers, and if I cannot include any sisters, nieces and aunts on the list it is only because a cruel law persists in declaring them to be incapacitated. Of course I know that the profession of a lawyer is as honourable, as

it is indispensable, and it is held by me in the highest possible esteem. I only desire further to apologise to the Select Committee for any shortness of temper or provoking obstinacy which their chairman may have been guilty of during our prolonged discussions over the provisions of this Act, and to thank them for so cheerfully making the sacrifices of leisure and of personal convenience which its work has involved. Lawyer and layman, official and non-official, as regards this Act we may now bury the hatchet, and I would fain hope that all our controversies within and without this chamber may only serve to confirm in us mutual sentiments of friendship and goodwill.

His Excellency the PRESIDENT:—Honourable gentlemen, the Honourable Members have stated with all their usual eloquence their reasons for assenting to, or dissenting from, the passing of the Bill, and I hope they will not think me wanting in consideration, if in concluding the debate, I do not reply to the several arguments that have once more been raised. The Honourable Members opposite unfortunately regard the Bill from a different point of view to the Government. They are distinguished lawyers, and they naturally take a lawyer's point of view. My colleagues and I, on the other hand, have to regard the matter from the standpoint of the practical administration, which does not always coincide with that of legal experts and propounders of legal theory. I sincerely wish that we could have been entirely unanimous. I am especially sorry that we have so often been obliged to join issue with the Hon'ble Mr. Jambulingam Mudaliyar, whose able advice and assistance both here and in the Select Committee we acknowledge with gratitude. I do believe, however, that we have hit off a compromise, which is not altogether one-sided, and that the law on this difficult and delicate subject which we have amended and consolidated will be found to work smoothly in practice. Certainly, we have not spared time or trouble in our endeavour to put the Bill into shape. I believe that there are few precedents for a Select Committee lasting thirty days, or for a Bill, the main provisions of which were enacted but three years ago, receiving such protracted and minute consideration. The public opponents of the Bill who still assert that it has been rushed have, I think you will agree, weakened their case considerably by resorting to such a grotesque misrepresentation of the facts. Although we have not been able to accept the greater portion of the amendments proposed, we have readily given way whenever we thought it possible in order to meet the views of non-official members, and I trust that they will have seen in my readiness to continue the debate to-day a further evidence of our earnest desire to listen to their advice. Let me assure the Honourable non-official Members once more, that although we do not, and cannot, regard the matter eye-to-eye with them, we are grateful to them for their assistance and for their opinions and advice. We recognise that they have not grudged the trouble and labour of examining the Bill which, while it was an obligatory task to us, was in a sense optional to them, and we hope that they see that their advice has influenced and guided us to no inconsiderable degree. Legislation is always and everywhere a matter for acute diversities of opinion, and it would be surprising if here in India alone there were to be found anything like approaching to unanimity. We shall have to call for their assistance in not a few other legislative tasks which lie before us, and which are even more thorny than that which we are about to lay aside. I hope that we shall all remember that, great though the diversities of opinions and of dispositions are, and must necessarily always be, between Indians and Englishmen, our two races are indispensable to one another and neither of us can do without the other in our joint work for the common good and welfare of the land in which we live.

4-35 P.M. The motion that the Bill as amended be passed into law was put and agreed to, sixteen voting for and three against it.

His Excellency the President then declared the meeting dissolved.

M. HAMMICK,
Secretary to Government.

MADRAS: PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Proceedings of a Meeting of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament, 24 and 25 Vic., cap. 67, and 55 and 56 Vic., cap. 14.

The Council met at the Council Chamber, Fort St. George, at noon on Tuesday the 8th day of April 1902.

PRESENT:

His Excellency Baron AMPTHILL, G.C.I.E., Governor of Madras—*Presiding.*
The Hon'ble Mr. H. M. WINTERBOTHAM, C.S.I.
The Hon'ble Mr. J. THOMSON.
The Hon'ble Mr. G. S. FORBES.
The Hon'ble Lieut.-Colonel Sir GEORGE MOORE, *Kt.*, C.I.E.
The Hon'ble Mr. H. BRADLEY.
The Hon'ble Mr. A. J. YORKE.
The Hon'ble Mr. A. W. B. HIGGENS.
The Hon'ble Mr. J. N. ATKINSON.
The Hon'ble S. SRINIVASARAGHAVA AIYANGAR Avargal, C.I.E., Diwan Bahadur.
The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal, Rao Bahadur.
The Hon'ble P. RATNASABHAPATI PILLAI Avargal.
The Hon'ble K. PERRAJU PANTULU Garu.
The Hon'ble G. SRINIVASA RAO Avargal.
The Hon'ble Mr. G. H. STUART.
The Hon'ble NAWAB SAIYID MUHAMMAD SAHIB Bahadur.
The Hon'ble Colonel A. W. SMART, R.E.
The Hon'ble Mr. G. STOKES.
The Hon'ble Mr. G. L. ACWORTH.
The Hon'ble Mr. J. E. P. WALLIS.
The Hon'ble the Revd. Dr. W. MILLER, C.I.E.

ADDITIONAL MEMBERS.

The Secretary reported that the following gentlemen took their seats as additional Members of Council:—

The Hon'ble Colonel A. W. SMART, R.E.
The Hon'ble Mr. G. STOKES.
The Hon'ble Mr. G. L. ACWORTH.
The Hon'ble Mr. J. E. P. WALLIS.
The Hon'ble the Revd. Dr. W. MILLER.

QUESTIONS.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—

I. (*a*) Has the attention of Government been drawn to the letter of M.R.Ry. Raja T. Rama Rao Avargal, High Court Vakil and an ex-member of this Honourable Council, in the *Hindu* and *Madras Mail*, dated the 19th February 1902, complaining that a fellow European passenger travelling with him in the first class by the north-east mail assaulted and handled him roughly?

(*b*) Has any inquiry been made and with what results?

(*c*) Are Government in possession of the facts connected with the incident, and if so will they be pleased to state them?

The Hon'ble Mr. Stokes :—

I. (*a*), (*b*) and (*c*) The attention of Government has been drawn to the letter referred to and enquiry is being made. The Government are not yet in possession of the facts connected with the alleged incident.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

II. (*a*) Will Government be pleased to state whether any and what improvements in irrigation have been carried out in the district of Tanjore since the introduction of the new settlement in 1893 in accordance with the recommendation of the Board of Revenue (Proceedings, Revenue Settlement, Land Records and Agriculture, No. 719, dated 1st November 1892, paragraph 18), who wrote that "*If the increase of assessment involved in the proposed settlement be imposed, it will certainly become the duty of Government to lay out very considerable sums upon the equitable and economical distribution of water upon which so large a revenue depends*"?

(*b*) Will Government be pleased to state the nature of the improvements carried out and the cost thereof during the last ten years?

The Hon'ble Colonel Smart :—

II. (*a*) Information regarding the improvements carried out in the district of Tanjore since the introduction of the new settlement in 1893 to the end of 1897–98 is given in the answer to the question asked by the Honourable Member at the meeting of the Legislative Council held on the 4th April 1898. Since then the question of the equitable distribution of water in the main branches of the Cauvery and Vennar rivers has been receiving further attention. Estimates for the following works have been sanctioned and are under execution :—

	Estimate.
	RS.
(1) Conversion of the Cauvery-Kodamurti dam into a regulator ..	1,00,000
(2) Improvements to the Lower Coleroon anicut	3,14,000
(3) Altering the Cauvery-Veerasholam dams into a regulator and improving Arasalar-Nattar regulators	74,700

In addition to the above other works of lesser importance have also been executed.

(*b*) The improvements carried out are with the object of securing a more effective and equitable distribution of the water-supply and greater security from floods. Revenue maps showing distribution and drainage in the delta have been prepared. The amounts spent on improvements to the Cauvery delta system during the past ten years are as follows :—

Year.	Major improvements.	Minor improvements.	Total.
	RS.	RS.	RS.
1892–93	..	22,994	22,994
1893–94	500	11,859	12,359
1894–95	5,309	8,198	13,507
1895–96	21,605	11,445	33,050
1896–97	34,884	19,576	54,460
1897–98	1,04,029	14,463	1,18,492
1898–99	92,795	17,859	1,10,654
1899–1900	1,16,719	16,911	1,33,630
1900–1901	3,70,399	15,220	3,85,619
1901–1902 up to January	1,24,013	7,757	1,31,770
Total ..	8,70,253	1,46,282	10,16,535

The scheme for the general drainage of the delta is now being checked and will shortly be considered by Government. The cost will probably come to about 12 lakhs. A further investigation with regard to the storage question has been recently ordered.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—

III. With reference to the recommendations of Sir Edward Buck, as appears from the report on the operations of the department of Land Records and Agriculture for 1900–1901, that instruction in the elements of agriculture should be made compulsory in primary and lower secondary schools, that minors under the Court of Wards should be given instruction in agriculture, and that the Court of Wards should introduce improved methods of agriculture in the estates under its management, will Government be pleased to state whether any and what measures are being taken to give effect to the proposals?

The Hon'ble Mr. Forbes:—

III. The reference in the report quoted by the Honourable Member is not quite correct as regards the proposed instruction in agriculture in primary and lower secondary schools. It was nowhere suggested by Sir E. Buck that the teaching of the elements of agriculture should be made compulsory in these schools. It was suggested that the elements of science, bearing chiefly on agriculture, should be taught in primary schools by means of object-lessons and text-books. This is done in this presidency wherever competent teachers are available.

Regarding the suggested instruction of minors under the Court of Wards in agriculture, arrangements are now made for the wards to attend morning field classes at the Saidapet College and also to receive instruction in botany and agriculture at Newington. As to the introduction of improved methods of agriculture into estates under the Court of Wards, the Court has it in contemplation to employ a competent agriculturist for the purpose of supervising generally agricultural operations throughout the estates under its charge and specially attending to the cultivation of homefarm lands and the management of stock.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—

IV. (*a*) Will Government be pleased to state whether any and what decision has been arrived at in regard to the proposed location at Tuticorin of the court of the additional Subordinate Judge of Tinnevelly?

(*b*) Is the court to be a permanent or temporary one?

The Hon'ble Mr. Stokes:—

IV. The Government have not yet arrived at any decision on the matter.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—

V. (*a*) Having regard to the representations made to His Excellency the Governor during the recent tour in Tanjore by ryots, complaining of the existing system of collecting the kist in four monthly instalments beginning from January, will Government be pleased to order that the old system of eight instalments or any lesser number be adopted?

(*b*) With reference to the objection mentioned that under any system of a larger number of instalments than four the ryots would be at the mercy of the village karnams regarding the amounts of the instalments, will Government be pleased to consider whether the objection cannot be met by arranging for the ryots being furnished with printed slips in the vernacular containing the amounts due for each instalment?

The Hon'ble Mr. Forbes:—

V. (*a*) and (*b*) The Government consider the present system to be simple and suitable and no better one has been suggested. The main objection to

the old system was that under it the instalments of revenue were unequal and varied in the case of different crops. The Government do not consider the suggestion in clause (*b*) of the question to be practicable.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

VI. (*a*) What is the practice obtaining in regard to the free cutting of babul (karuvai) trees standing on village and channel banks for purposes of implements of agriculture by ryots in Tanjore and other wet districts?

(*b*) If free cutting is not allowed at present, will Government be pleased to issue orders granting the concession?

The Hon'ble Mr. Forbes :—

VI. (*a*) In Tanjore babul trees standing on Government lands which are not reserved under the Forest Act may not be felled except under permits which are issued on payment of the prescribed rates of seigniorage.

(*b*) The Government see no reason to allow the free cutting of such trees on Government land. The supply is by no means large, and unrestricted felling would soon result in the practical extermination of the tree to the grave inconvenience of the community.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

VII. (*a*) Are Government aware that in Tanjore at the period of the old pymash of about the year 1830 there were in each village certain plots of unassessed land called *yerikkattalai* (ஏரிக்கட்டளை) reserved for storage of water for being used for irrigation during scarcity, and that these plots have since been brought under cultivation and assessment?

(*b*) Will Government be pleased to take steps for the above lands being exempted from assessment and set apart as reservoirs?

The Hon'ble Mr. Forbes :—

VII. (*a*) and (*b*) In some villages there may have been such storage reserves but the conditions in the delta have so largely altered in the last seventy years that the arrangements then in vogue for irrigation would often no longer be appropriate. It is improbable that any tank poramboke has been assigned for cultivation without good reason. In the upland parts of the district tank poramboke is still very extensive in most villages, and there has certainly been no large abandonment of it.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

VIII. Will Government be pleased to issue orders in view to timely notice being given in the district Gazette of the dates of the sales of land for arrears of land revenue?

The Hon'ble Mr. Forbes :—

VIII. The Government will enquire whether there is any reason to suppose that the notice given under the existing law and orders is insufficient.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

IX. Will Government be pleased to issue orders in view to earthworks, etc., connected with the conservancy of rivers and tanks in the Public Works department being entrusted to the villagers concerned in preference to professional contractors?

The Hon'ble Colonel Smart :—

IX. The works are given out to the villagers in preference to contractors when the former apply for them, but very few applications are made by villagers for works. The Government consider that the practice now in force is all that can be properly adopted and that no special orders are necessary.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

X. Will Government be pleased to take into consideration the desirability of inviting the municipalities and district boards to establish with the aid of Government subsidy technical institutes in each district or group of districts with stipends for pupils upon the model of the institution at Madura?

The Hon'ble Mr. Stokes :—

X. The subject of industrial education is now engaging the attention of the Government of India, whose recommendations are awaited.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

XI. (*a*) Is it a fact that leprosy is prevalent at Srívilliputtúr (Tinnevelly) and whether lepers are allowed to bathe in the *Tirumukakulam* tank, which is resorted to by the general public?

(*b*) Whether any and what steps have been taken to prevent lepers from having access to the tank, and to provide them with a separate tank or place for bathing?

The Hon'ble Mr. Stokes :—

XI. (*a*) and (*b*) The Honourable Member is referred to G.O., No. 166, Public, dated 15th February 1902, a copy of which will be furnished to him.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

XII. (*a*) Whether till now students who had passed in the English and Science branches of the B.A. degree examination were admitted into the 1st B.L. class in the Law College of Madras, and whether such students are refused admission this year in spite of the notifications in the usual form in the *Fort St. George Gazette*?

(*b*) Under what circumstances the notifications in the Gazette came to be issued, and why the same are not being given effect to?

The Hon'ble Mr. Stokes :—

XII. (*a*) The answer to the first part of the question is yes, to the second part no. Such students were refused admission not in spite of the notification of 21st January but in accordance with the revised notification published in the Gazette of the 18th February which stated that applicants for admission to the junior B.L. class must have passed the B.A. degree examination in all three divisions.

(*b*) The first notification was issued in accordance with the existing rules of the Law college. The second one cancelling the first is a consequence of recent changes in the University by-laws under which candidates for the first examination in law must have attended courses of lectures in law for two consecutive terms subsequent to passing the

B.A. degree examination. The rules of the Law college are now being brought into accordance with the revised by-laws.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—

XIII. (*a*) How many vacancies in the post of local fund engineers occurred since the issue of the resolution of the Government of Madras of January 1897, which laid down that "Local Boards will have their wants fully and efficiently met by employing engineers locally born and trained or locally trained and that for the future they should recruit their staff from that source" ?

(*b*) How many of such vacancies were filled up in accordance with the above resolution and how many otherwise ?

(*c*) If the vacancies have not been filled up in accordance with the above resolution, what were the circumstances under which they were not filled up ?

The Hon'ble Mr. Stokes :—

XIII. (*a*) Thirteen.

(*b*) All but one were filled up in accordance with the rules laid down by Government.

(*c*) A departure from the rules was made in one instance, as the person appointed was considered at the time of appointment to be the best of the candidates.

The Hon'ble K. PERRAJU PANTULU Garu :—

XIV. (*a*) Have Government any information as to the existence of scarcity or approach of famine conditions in the Ceded districts ; if so, will it be laid on the table ?

(*b*) Have Government contemplated or been carrying out any relief work in those districts ; if so, will preference be given to the execution of village works as defined in section V of the Famine Commission Report, 1901 ?

(*c*) What is the present average of the outturn of the staple crops in those districts according to the latest information ?

(*d*) Will Government be pleased to state how much of the land revenue for the current year has been or will be remitted or suspended in those districts ?

The Hon'ble Mr. Forbes :—

XIV. (*a*) The Government are receiving regular information upon the subject and are watching the situation. They will as usual communicate information of general interest to the press. Famine conditions at present exist nowhere, and prices are below scarcity rates.

(*b*) No necessity for the carrying out of relief works has yet arisen. No need for them has been reported from any of the districts mentioned.

(*c*) The average outturn of the staple crops in all these districts is reported to be generally fair.

(*d*) It is expected that about Rs. 1·59 lakhs will be remitted in Bellary, Rs. 1·53 lakhs in Anantapur, Rs. 3·53 lakhs in Cuddapah and Rs. 0·44 in Kurnool, and that about Rs. 0·96 lakh will be postponed in Bellary. Government have as yet no information regarding probable postponement in the other three districts.

The Hon'ble K. PERRAJU PANTULU Garu :—

XV. (*a*) Have the Government of India in their orders on the report of the Famine Commission, 1901, referred to this Government the recommendations in section XX of the report as regards the preservation of cattle ?

(*b*) Have the Madras Government sent any reply; if so, will it be laid on the table?

The Hon'ble Mr. Forbes :—

XV. (*a*) and (*b*) The answer is in the negative. It is not to be understood from this reply that section XX of the report has been overlooked. The suggestions it contains will be fully considered.

The Hon'ble K. PERRAJU PANTULU Garu :—

XVI. Will Government be pleased to order the plantation of drought-resisting fodder plants on a sufficiently large scale in the Ceded districts, and also in other parts of the presidency that are liable to suffer from want of rain?

The Hon'ble Mr. Forbes :—

XVI. If the Honourable Member will state what drought-resisting fodder plants he has in mind, the Government will be happy to consider the suggestion.

The Hon'ble K. PERRAJU PANTULU Garu :—

XVII. (*a*) Is it the practice in the Gódávari district to sell or otherwise alienate tank-beds and village puntas on the reports of tahsildars or local officers that their alienation causes no inconvenience to the people, notwithstanding the Board's Standing Order that Government will always look more to people's convenience than to any petty loss of revenue?

(*b*) Having regard to the future development of the villages and the possible needs of the villagers, which cannot now be prejudged, will Government be pleased to express themselves against alienations of such property?

(*c*) Will Government be pleased to pass an order that no portions of the existing village commons or other communal property, such as tanks and puntas, should be alienated, except in the unavoidable and special cases falling under the Land Acquisition Act?

The Hon'ble Mr. Forbes :—

XVII. (*a*) The Standing Orders of the Board of Revenue require that a tahsildar, in whose opinion the grant on patta of unassessed land is open to no objection, shall report the case for the orders of the divisional officer, whose duty it would be before transferring the land to the head of "assessed" to give every consideration to the present and prospective wants and convenience of the people.

(*b*) and (*c*) The Government see no occasion for general pronouncements of the nature suggested in clauses (*b*) and (*c*) of the Honourable Member's question. In individual cases those who object to the grant of some particular plot of unassessed land on patta should represent their views to the divisional-officer and if necessary to appellate authority.

The Hon'ble K. PERRAJU PANTULU Garu :—

XVIII. Are Government aware that in very many villages in the deltas of the Gódávari there are no cattle stands for village cattle and, having regard to the importance of preserving cattle in healthy condition, will Government be pleased to call for and separately publish a statement as to the extent of the cattle stands and the number of cattle in the villages in those parts?

The Hon'ble Mr. Forbes :—

XVIII. The Government have not received any complaints concerning the absence of cattle stands in the Gódávari delta. Any such complaints should be addressed to the district officers. It does not follow that the

health of cattle will be promoted by congregating them on a public cattle stand. It is a better arrangement practised in many localities for each ryot to stable his cattle on his own holding. No useful purpose would be served by collecting and publishing the statistics suggested in the Honourable Member's question, and the Government cannot undertake to do so.

The Hon'ble K. PERRAJU PANTULU Garu:—

XIX. (*a*) Is it a fact that the indigenous varieties of cotton in this presidency are fast deteriorating during the last few years?

(*b*) Will Government be pleased to start an experimental farm in the largest cotton-growing district in the presidency for the growth of the American and Egyptian cotton which now command the English markets and publish the results for the benefit of the agriculturists?

The Hon'ble Mr. Forbes:—

XIX. (*a*) The Government have no reason to believe that the Honourable Member's apprehension is well-founded.

(*b*) Experimental farms have been started in the Bellary and Tinnevelly districts, whereon the improvement of indigenous varieties of cotton will receive special attention; and the introduction of exotics will not be lost sight of. Results will be published from time to time.

The Hon'ble K. PERRAJU PANTULU Garu:—

XX. (*a*) In view to the encouragement and helping of the various local art industries, will Government be pleased to arrange with the railway companies for publication in their guides of the description and prices of the articles procurable in the vicinity of the railway stations?

(*b*) In order to enable Indian workmen and artizans to exploit their wares, will Government be pleased to arrange with the railway companies to provide depots for exhibiting suitable articles at the railway stations and selling them on commission for the reasonable or fixed prices on account of and for the benefit of the workmen and artizans?

The Hon'ble Colonel Smart:—

XX. (*a*) The Government have ascertained that the agents of the railways are always glad to insert in their guides descriptions of art industries that flourish in the locality of particular stations. With regard to details and prices of particular wares it is open to the vendors to make these known by means of advertisement in the guides or in the book time-tables.

(*b*) At some stations vendors are already allowed to sell articles of local manufacture and the railways are willing to extend this concession on suitable terms if application be made. The railway companies cannot undertake to sell articles on behalf of manufacturers.

The Hon'ble K. PERRAJU PANTULU Garu:—

XXI. Will Government be pleased to state when it is likely that the Madras Tenancy Bill will be resumed and laid before the Council for its being considered and passed in due course?

The Hon'ble Mr. Forbes:—

XXI. The Government are unable to state at present when the Tenancy Bill will again be laid before the Council.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—

XXII. (*a*) Are Government aware that the High Court have discontinued, since April 1900, the practice of giving acting promotions to district munsifs on the occasions of grant of leave to the officers in the higher grades or the establishment of temporary sub-courts?

(*b*) Will Government be pleased to address the High Court in view to the giving of such promotions which are allowable under article 155, rule 2, of the Civil Service Regulations?

The Hon'ble Mr. Stokes :—

XXII. (*a*) The Government have no information on the subject.

(*b*) The Government are not prepared to interfere with the High Court's discretion in this matter.

The Hon'ble K. PERRAJU PANTULU Garu :—

XXIII. In regard to the fact, as appearing in chapter II of the Madras Administration Report published during the year 1900-1901, that for the six years, from fasli 1304 to 1309, 36,340,748 demand notices were issued—the number rising from 5,690,788 in fasli 1304 to 6,134,242 in fasli 1309—and 1,869,830 attachment notices were issued—the number rising from 236,151 in fasli 1304 to 406,246 in fasli 1309—will Government be pleased to state why they had to employ such large amount of increasing coercion for the recovery of arrears of land revenue?

The Hon'ble Mr. Forbes :—

XXIII. Demand notices are issued whenever a pattadar has failed voluntarily to pay on any of the annual kist dates the instalment of his land revenue due on that date. Pattadars rarely pay until the demand notice is issued, the notice being regarded as a mere bill or statement of account, the issue of which involves no hardship. The first process of a coercive nature is the "attachment" which follows on failure to pay according to the "demand notice". The Honourable Member will find the statistics of processes for the recovery of unpaid land revenue fully discussed for the years he refers to in the annual land revenue reports and reviews.

The Hon'ble K. PERRAJU PANTULU Garu :—

XXIV. In view of the expression of the Government of India in their recent resolution on land settlement, to the effect that they have further laid down liberal principles for future guidance and will be prepared, where the necessity is established, to make further advance in respect of the progressive and graduated imposition of large enhancements, will Government be pleased to order a modification of land settlement in Malabar so that the increase of assessment mentioned in their answer to the Hon'ble M.R.Ry. Ratnasabhapati Pillai's question at the last meeting, as also similar other enhancements, if any, may not now be given effect to?

The Hon'ble Mr. Forbes :—

XXIV. The settlement orders provide that the enhancements mentioned in the answer referred to shall not be levied at once but by annual increments, the first year's increment being 25 per cent., and that of succeeding years, 12½ per cent. of the old assessment. With regard to Malabar a further modification is under consideration.

The Hon'ble K. PERRAJU PANTULU Garu :—

XXV. Are census charges not purely an Imperial expenditure? Will Government be pleased to state why and on what principle the municipalities were made to bear a proportion of the charges?

The Hon'ble Mr. Forbes :—

XXV. The answer to the first part of the question is in the affirmative. But under section 14 of the Indian Census Act, X of 1900, a part of the census expenses has been charged to municipal funds, on the ground

that municipal councils cannot properly carry out the statutory duties imposed on them in respect of the registration of births and deaths, and many other details of municipal administration, unless a census is taken from time to time.

The Hon'ble G. SRINIVASA RAO Avargal :—

XXVI. (*a*) Are the Government aware that acting promotions to district munsifs have not been given since April 1900, although the High Court was giving such acting promotions up to March 1900 as per exception in article 155 of the Civil Service Regulations in favour of Madras munsifs ?

(*b*) Will the Government be pleased to call the attention of the High Court to the said article and to give the district munsifs the acting promotions which the rules allow and which these hard-worked officers fully deserve ?

The Hon'ble Mr. Stokes :—

XXVI. (*a*) and (*b*) The Honourable Member is referred to the answer given to a similar question asked by the Hon'ble P. Ratnasabhapati Pillai Avargal.

The Hon'ble G. SRINIVASA RAO Avargal :—

XXVII. (*a*) Are the Government aware that Mysore and Japan have sent some of their best students at Government expense to acquire learning in Europe and America ?

(*b*) Considering the immense advantages of such a step, will the Government be pleased to send annually at Government expense some of the best students of the Madras University to Europe and America to receive special training in agricultural, industrial and other technical branches ?

The Hon'ble Mr. Stokes :—

XXVII. (*a*) and (*b*) The question of technical scholarships is now under the consideration of this Government and the Government of India; and the Government are unable at present to make any statement on the matter.

ACT ASSENTED TO BY HIS EXCELLENCY THE GOVERNOR.

The Secretary reported that the Bill to consolidate and amend the law relating to the Court of Wards in the Madras presidency, which had been passed by the Council at the meeting held on the 19th February 1902, received the assent of His Excellency the Governor on the 22nd idem.

FINANCIAL STATEMENT.

The Hon'ble Mr. J. THOMSON, in explaining the financial statement for the year 1902–1903, said,—

With Your Excellency's permission, I will offer the following remarks which may make the memorandum and figured statements supplied to Honourable Members of easier comprehension.

The limited ownership that this Government has in the public revenues which it levies, under the settlement still in operation, must by this time be familiar to most of us. Briefly, there is placed at our disposal certain shares of the major heads of income; minor items are left to us in full; a certain figure has been arrived at as our normal necessary expenditure; the excess of this expenditure over our share of the normal total income is set down as an asset and called our fixed assignment; and starting from this basis we are required to live for five years of the contract or for so long as it may run to the best of our ability and to maintain a minimum balance of twenty lakhs. Our husbandry, if any, has to be exhibited in diligently cultivating the total revenues so that our share therein may be the greater and in making the money we spend go as far as possible, saving on it if we can at all do so.

The conditions are certainly calculated to make us economical. In all the five years that are past, the seasons, famine and plague have worked against us, and if we have been unprofitable servants it has not been with our will and consent, but from

causes beyond our control. Our solvency has been maintained by repeated doles from the Supreme Government. During all the time we have not ceased to protest that we are treated not as a son but as a poor relation, or, say, like the elder brother of the prodigal son; but now that the Imperial coffers are full and overflowing we gratefully acknowledge a large liberality and would fain find therein an earnest of a future in which it will be in our power to discharge some at least of the many obligations which Government well knows are due to the tax-payers of this presidency, as supporters of all India. As a Government we find it easy enough to believe that the Imperial Government has difficulties in financing itself and in doing its best for the various provinces which make up this great *imperium*, of which difficulties we here cannot be fully cognisant. It is, however, a fact in State as in other affairs that asking and frequent asking is a condition precedent to receiving and there is an idea abroad here that the Government of Madras does not ask enough and, thereby, does not receive what it might. In our opinion we do not need and ought not to exaggerate our demands in the expectation of their being met only in part; and prefer to believe that the Government of India is prepared to deal fairly and justly by us according as all the circumstances will permit. At present our business is to make the best use we can of the considerable sums we now have in hand.

As explained last year, the budget estimate for 1901–1902 was, with the special grants made by the Government of India, so framed as to work out to the minimum closing balance prescribed under the contract settlement, viz., twenty lakhs. It will be seen from appendix A to the memorandum that this balance stands in the revised estimate for the year at 45·22 lakhs, or 25·22 lakhs higher. This result has been produced by (*a*) an increase in the opening balance of 1·57 lakhs; (*b*) increased revenues of 17·28 lakhs; and (*c*) savings in expenditure to the extent of 6·37 lakhs.

As the closing balance of 1900–1901 was the opening balance of 1901–1902, the improvement in the latter really represents the net difference of the transactions as computed in the revised estimate for the previous year and the actual results of the year. This difference is so small comparatively to the total revenues and expenditure as to call for no remark.

In the increase of revenue (17·28) is included a contribution of ten lakhs from Imperial to Provincial funds for expenditure in 1902–1903 on public works and other items which do not involve recurring charges.

In dealing with the figures of the revised estimate for 1901–1902 and of the budget estimate for 1902–1903 it is important to remember that all transactions between the Imperial and Provincial Governments take place through the head Adjustments shown on the receipts side under I. Land Revenue. This grant of 10 lakhs, like other special assignments from Imperial funds, has first to be brought in on the receipts side of the budget through the adjusting head, and having entered there into the Provincial revenues it is available for expenditure. But like any ordinary item of Provincial revenue the item must be budgeted for on the expenditure side of the estimates before it is so available. This particular ten lakhs has accordingly been entered under Adjustments in the revised estimate for 1901–1902, but provision for its expenditure has necessarily been made only in the budget estimate of 1902–1903. Had the credit to revenue and the debit to expenditure taken place in the same estimate, revised or budget, the net result would have been the same, both sides of the budget being swelled by the same amount. Deducting from the increased revenues this sum of 10 lakhs and the other special adjustment on account of the transactions of the Tanjore district board railway which is referred to on page 3 of the memorandum under "Adjustments", the real increase in the revenue stands at seven lakhs in round figures. The memorandum has touched under the various heads upon the principal variations, and a reference to appendix A shows that this increase of seven lakhs occurred mainly under the principal heads of revenue. Of other heads the only important rise was that of ·50 under Jails in consequence of increased receipts from jail manufactures.

The conversion into loans of the grants to the Madras and Ootacamund municipalities accounts for nearly two lakhs of the saving of 6·37 lakhs in expenditure, the remainder of which arises from comparatively small lapses in the grants under various heads. On the other hand there has, as explained in the memorandum, been a large rise under Jail expenditure.

The year 1902–1903 is thus expected to open with a balance of 45·22 lakhs. The receipts are estimated at 353·73 and the expenditure at 373·51. The deficit on the year's transactions, or in other words the excess of expenditure over receipts, is thus 19·78, and the opening balance (45·22) reduced by this sum gives the estimated closing balance of the year 25·44 lakhs.

As already explained under the revised estimate the figure of expenditure includes the outlay from the special grant of ten lakhs which has been credited to Provincial funds in the revised estimate for 1901–1902. The deficit of 19·78 mentioned above has therefore to be reduced by this amount in order to arrive at a correct estimate of the transactions of the year.

For a proper understanding of the position of Provincial funds it is necessary again to refer to the head "ADJUSTMENTS" shown under I. LAND REVENUE; for, as explained by the Honourable Mr. Arundel on previous occasions, the head "ADJUSTMENTS" provides the means whereby equilibrium or solvency is maintained. The fixed contract adjustment, or the amount required to equate Provincial revenues and Provincial expenditure as fixed by the figures adopted for the contract settlement, is, as has been more than once explained to the Legislative Council, 16·46 lakhs; but this amount differs so largely from the amounts of 50·74, 61·27 and 33·81 shown against this item in the budget estimate for 1901–1902, the revised estimate for the same year and the budget estimate for 1902–1903, respectively, that it is necessary to give in detail in one view the amounts which go to make up these sums. This is done in the statement laid upon the table to which I would refer you.

The special grant of ten lakhs for Provincial expenditure in 1902–1903 which has been entered in the revised estimate for 1901–1902, as shown in the above statement, has already been alluded to. This grant has been confined to works which can be completed in 1902–1903, so that it is in no sense a recurring grant. Of the amount, this Government proposes to spend ·84 lakh under 22. EDUCATION as contributions towards the Victoria hostel and a hostel in connection with the Madras Christian College; 5·56 lakhs under 43. MINOR WORKS AND NAVIGATION, a portion of this grant being devoted to minor irrigation works in charge of the Revenue department; and 3·60 lakhs under 45. CIVIL WORKS, this amount being devoted to buildings and other public works. Details are given in a statement placed upon the table and the items have been approved by the Government of India.

Of the items entered in the column "Budget estimate for 1902–1903", the sum of eight lakhs represents a grant from Imperial to Provincial revenues which is to be recurring and has been made in order to enable the local Government to increase its expenditure on education. The manner in which it is proposed to expend the extra funds thus placed at the disposal of this Government has been set out in the memorandum under the head "Education" (page 9).

The sum of nine lakhs which is shown as an additional Provincial assignment for increase of expenditure is made up of two grants—one of 5·50 lakhs which is non-recurring and which appears under the expenditure head 45. CIVIL WORKS, and the other of 3·50 lakhs which appears under various heads on the expenditure side of the budget, some portion of which will represent recurring grants. It is intended to devote the 5·50 lakhs to expenditure on feeder roads to railways and on other roads and bridges as well as on buildings and other public works. This is the desire of the Government of India. The exact distribution of the amount is under consideration. Similarly the distribution of a portion of the 3·50 lakhs has still to be decided upon. In respect of both of these items Government is ready and will be pleased to receive suggestions towards profitable expenditure.

As regards the estimated revenue for 1902–1903, it will be seen from appendix A to the memorandum that almost all heads exhibit some increase over the budget estimate figures for 1901–1902 and that the items in which a decrease is shown are of minor importance. Increase in revenue is most marked under those items which are included under the principal heads of revenue. These increases have all been dealt with in the memorandum, where necessary, and it does not appear that anything further in regard to them need be said here.

Turning to the expenditure side of the estimates, provision has been made for the following new items:—

(i) Under 3. LAND REVENUE—

(a) for increased travelling allowances to the lower paid menial establishments in the Revenue department—Rs. 21,000; the sanction of the Government of India is, however, not yet granted for this item;

(b) for an establishment which the Hon'ble Mr. Nicholson proposes to employ in connection with inquiries regarding the institution of agricultural banks in this presidency—Rs. 4,000;

(c) for a staff for the maintenance of land records; the exact details of the scheme have yet to be finally settled, but it is hoped that it will be introduced during 1902-1903—Rs. 75,000;

(d) for the appointment of an assistant director of agriculture—amount not settled.

(ii) Under 18. GENERAL ADMINISTRATION it will probably be necessary to make provision for the employment of an officer on special duty in connection with the subject of the redistribution of revenue charges in the presidency—Rs. 20,000.

(iii) Under 19-A. LAW AND JUSTICE, a provision of Rs. 92,000 has been made for additional process service establishment. This establishment was reduced in 1889, the minimum number of processes to be served by each member of the establishment being raised and the number of persons employed being consequently diminished. Since that date, however, the number of processes to be served has risen by about 50 *per cent.* and the employment of a larger establishment to cope with this increased work is necessary.

(iv) The budget estimate under 20. POLICE contains a provision (Rs. 48,000) for the organization of the Madras city police. It also includes an allotment of ·11 lakh for the increase to the police force employed on the Madras harbour, but the extra cost in this case is recoveredfrom the Harbour Trust Board and is shown on the receipts side of the estimate.

(v) The enhanced expenditure under EDUCATION has, as already stated, been explained in the memorandum, and it will be seen that the outlay on primary education is to be increased; that establishments are to be strengthened generally; that the Director of Public Instruction is to be given necessary aid; that larger grants-in-aid are to be made and that local bodies are to be subsidised to a considerable extent in order to enable them to pay grants in full.

(vi) Under 24. MEDICAL provisions have been made—

(a) for the improvement of the pay and position of civil hospital assistants —a measure which has been under discussion and consideration for several years—Rs. 10,000, and

(b) for the establishment of medical schools at Ráyapuram and Vizagapatam, the necessity for which has been explained in the memorandum (page 10)—Rs. 29,000.

It is also intended to start the vaccine institute, full details regarding the scope of which were given by the Hon'ble Mr. Arundel in his speech last year. The building will, it is hoped, be shortly completed and the institution should be in full working order at no very distant date.

(vii) Under 26. SCIENTIFIC AND OTHER MINOR DEPARTMENTS the budget provides for the development of the weaving, carpentry and art sections of the School of Arts. The expenditure under these heads will, however, as estimated, be covered by receipts credited *per contra*. This head also contains a provision for the starting of a bacteriological laboratory which will be worked in conjunction with the central vaccine institute.

The Hon'ble Mr. A. J. YORKE:—Owing to recent absence from Madras it was only yesterday that I was able to look into the budget statement. Consequently I have been unable to make anything like an exhaustive study of it and my remarks upon it can only be of a general nature. Perhaps the most noteworthy point in it is that, thanks to the prosperous condition of the central Government finances, we are to

have eight lakhs more than usual for education, and five lakhs more than usual for roads, communications and public works generally. This, Sir, is highly satisfactory, but when considered by any one with experience of the most urgent needs of the country, I cannot but think that these two allotments should have been transposed, and that improved roads and communications are so very urgently required that they should have received the chief financial aid, while education, highly important as it is, should have been given the second place. In stating the opinion, I believe that even the honourable head of the educational department should support it, because I claim that, speaking generally, any community will be ready to pay for its own education roughly speaking in proportion to its material prosperity, and there can be no question that material prosperity for any district is impossible in the absence of proper roads to it, and in it. Why, I myself know of thousands of acres of really good land now lying waste which undoubtedly, if accessible to the outer world, would long since have been under cultivation and ere this have been carrying a self-supporting population able in a greater or less degree to educate themselves, whereas these large areas are now sparsely inhabited by absolutely ignorant wild tribes. The thousands of acres I refer to as thus undeveloped for want of proper communications are within my personal knowledge in only one or two districts, and I have no doubt they could be matched by further thousands in every district in the presidency, totalling up an appalling waste of resources, a waste which acts and reacts upon every branch of revenue in the country and all for want of appreciation or at least of sufficient appreciation of the vital necessity of roads. Another instance of wasted opportunities arises in connection with salt and excise, and again from the fault of Government. This time the sin of omission is to neglect to free these industries from antiquated regulations which undoubtedly hamper both the salt and spirit manufacture and transport in this presidency without safeguarding Government revenue interests in any essential way. The mercantile community have represented their grievances in the matter so fully in correspondence that there is no occasion to go into it here at length; but surely, Sir, there is something wrong when such representations continue for four years without eliciting any more satisfactory reply than that the matter is under the consideration of Government. I referred just now to the extra provision of funds for spending purposes in the presidency as highly satisfactory, but before closing I must qualify that remark in two directions. The first is that while the Provincial contract remains as at present, and our case against it, as put forward last year in public meeting, remains unmet, Madras must still consider itself ill-treated as compared with other presidencies. The other and more serious qualification must be made if we view the extra provision of funds, not merely from the narrow Presidential point of view, but in the broader aspect of the credit of the central Government which is laying itself open to the charge of being generous before it is just.

His Excellency the PRESIDENT.—I am sorry that I have to interrupt the Honourable Member. He must confine his remarks to those subjects which affect the revenue and the expenditure within the control of the local Government. He is now criticising Imperial finance, which is not permissible.

The Hon'ble Mr. A. J. YORKE.—If Your Excellency should rule my remarks out of order, I will conclude them. But it appears to me that, in the interests of the general body of the tax-payers of the country, this is the only opportunity we have of voicing our views on such matters.

His Excellency the PRESIDENT.—The Honourable Member is, no doubt, acquainted with the rule printed on page 41 of our pamphlet, which says "The discussion will be limited to those branches of revenue and expenditure which are under the control of the local Government; and it will not be permissible to enter upon a criticism of Imperial finance".

The Hon'ble Mr. A. J. YORKE.—I bow to Your Excellency's decision and close my remarks.

The Hon'ble K. PERRAJU PANTULU Garu:—May it please Your Excellency,—The memorandum of the budget just explained by the Honourable Member in charge of finance reached my hands on the evening of the 3rd instant. During the few days' interval it is hardly possible to thoroughly understand the scheme and its details. I do not think I can confidently handle any portion of the fabric woven by the Finance

Member. With Your Lordship's permission, however, I venture to make a few remarks—

(i) The present budget is not an altogether uncheerful budget. The most gratifying feature is undoubtedly the substantial grant from the Government of India, which with another fortunate circumstance enabled the Finance Member to handle such a large opening balance of 45·22 lakhs. But for this welcome grant our Finance Member might probably have found it no easy task to satisfactorily make the two ends meet. The conversion of the modest into a handsome opening balance is an auspicious augury, and it is earnestly to be hoped that he will be enabled to sustain his brilliant commencement in the after years, and I heartily congratulate him on his good luck. Of the increased allotments, those under the heads of irrigation and primary education are certainly most welcome, but exception cannot however but be taken to the distribution of the rest under other grants, in view to the fact that the pressing needs of the agricultural community, whose labour contributes the bulk of the State revenue, have not been met or even attempted to be satisfied.

(ii) *Village commons and cattle-stands.*—In very many villages, especially in irrigated tracts, communal land has gradually dwindled and disappeared. There are no village commons or cattle-stands. In view to the great importance of the preservation of the cattle wealth of the ryotcy and their sanitary condition, it behoves Government to look into the subject carefully, call for detailed information as regards every village, and provide for the acquisition of suitable and sufficient portions of land for village commons and cattle-stands. In the delta lands of Gódávari and Kistna, as soon as transplantation is over, ryots are compelled to drive away all their cattle to uplands by the forest side, where they die in large numbers. Sheer necessity compels ryots to bring under plough every available inch of land, and there is hardly dry ground in many a village for cattle even to dry their legs in cultivation season. The cattle difficulty has become so great that the ruinous practice of selling away cattle for any price soon after transplantation, and buying them in the ploughing season, has only become too common. The insanitary conditions have become so acute that cattle are succumbing to disease in large numbers.

(iii) *Manure and fuel depots.*—Month after month we find from the presidency Gazette large extents of unoccupied land added to the forest reserves, regardless of the convenience of the agriculturists. Land under cultivation is deteriorating for want of sufficient manure and the yield is becoming poorer and more precarious. The evil habit is prevalent throughout of burning manure for fuel. This is due, not to the ryot's ignorance of the value of cowdung manure, but to his difficulty in procuring fuel at a cheap cost. If Government would incur the charge of opening fuel depots in such localities, which can easily be supplied from the vast forests without fear of disafforestation, and enable ryots to purchase fuel at moderate cost, much manurial wealth can be saved to them and manured tillage extended to the no small satisfaction of Government. Dry cultivation in many places has no fodder preserves within convenient distance. As things now stand ryots are obliged to send away their cattle for several months in the year. How can they be expected to restore to land what it lost by constant cropping?

(iv) *State aid to agriculture.*—The agricultural department in the North-Western Provinces keeps an expert in well-sinking, whose advice and services the ryots can have on payment of a small charge. Improved implements are kept in store which ryots can use on payment of hire. Some of these are constantly working at Cawnpore, and the ryots there see the advantages of making use of such improved implements. The supply is secured to cultivators of specially selected seed at prices lower than the market prices. There is no reason why our Government should not follow the example.

There is no department specially charged with the duty of studying the possibilities of increasing the productivity of land and disseminating useful information among ryots. There is no agricultural bureau to give a sympathetic ear to the sorrows of the ryot and offer him advice and helping hand. There are no example plots or agricultural farms. The eternal want of pence should no longer stand in the way of attending to them. It may be said that the initiative must proceed from among the ryots. But what is left them after collection of Government share and other legal dues is hardly sufficient to maintain them even in a state of merely physical efficiency

notwithstanding their notorious habits of thrift; and so much may safely be asserted without launching upon the controversial subject of the present economic condition of the agricultural community. In no country in the civilized world, so far as I am aware, where the bulk of the population have practically no resources to fall upon except agriculture, are half the net profits swept into the State coffers, and so little expenditure incurred for the improvement of the material condition of the agriculturists as here.

For the promotion of direct methods of agriculture the small state of Denmark

spends annually	£108,000
Belgium	£112,000
Switzerland	£150,000
Italy	£320,000
Prussia	£680,000
Austria	£950,000
France	£1,870,000

What our Government spends for its agriculturists, from whose labour the bulk of the revenue is drawn, does not even come up to the neighbourhood of the percentage spent in those countries, notwithstanding that the peasantry there is far more advanced than those of this country and have besides numerous other resources to fall upon.

(v) *State landlordism.*—It may perhaps be out of place to discuss here the policy embodied in the recent resolution of the Government of India. If Lord Curzon's resolution on land settlement is the last word on the subject, which the people hope not, Government has decided to play the part of a benevolent landlord. In fact Lord Curzon from his seat in the Imperial Legislative Council on 27th September 1899 said:—

"There is no country in the world that is so dependent upon the prosperity of the agricultural classes as India. There is no Government in the world that is so personally interested in agriculture as the Indian Government. We are, in the strictest sense of the term, the largest landlords in creation. Our land revenues are the staple of our income; upon the contentment and solvency of the millions who live upon the soil is based the security of our rule."

As to the solvency of the millions of ryots in this Presidency, Government has no information, and in answering my question at the last meeting of the Council, Government declined to enter upon that enquiry, presumably on the ground of its expense. The expense cannot be so much as prohibitive. If Government sees its way to make provision in the budget, though not in a lump sum, but gradually, Government would have been in possession of concrete facts as to the state of the ryots and accurate knowledge of their present condition. If Government—the greatest landlord in creation—mean to be benevolent in action at once as it is undoubtedly benevolent in intention, I do not think it is unable to grapple with the debt factor, which is no less important than the revenue factor in the economic problem of the land, Government with its unbounded credit may easily borrow money enough to wipe off the aggregate debt of the agriculturists, and lending the same to them on easy terms on the security of their land, set them free from their debts, rather than exhaust any energy in projecting mere palliative measures. Government will then be in a position to see whether or not the ryots' indebtedness is the consequence of its revenue system. The right to collect so much revenue from the agriculturists ought in all fairness and principles of justice to correspond with the obligation of incurring expenditure for their aid and material improvement.

(vi) *Industrial development.*—Neither do I find any provision in aid of the industrial development of the country. The subject is perhaps engaging the attention of the Government of India and its pronouncement will be eagerly awaited. But without waiting indefinitely, the ground may be prepared by this Government for early action in the matter, working on the basis of the existing state of things. This is a subject I have very much at heart. I do not now intend to weary the Council with the expression of my views, but I do earnestly hope to be able to congratulate Government on the inauguration of a comprehensive scheme which will tend to the relief of the industrial population of the presidency.

(vii) *Water-distributing agency.*—Before I conclude I wish to touch upon one important branch of administration which vitally affects not an insignificant portion of the agricultural community. It was just eight years ago (9th April 1894) that my friend the Hon'ble N. Subba Rao Pantulu, in his budget speech, brought to the

notice of Government the necessity for making adequate provision for the employment of a better paid agency in the irrigation branch of the Public Works department than the present staff of delta superintendents. In answering his question a year or two before, Government remarked that "the evils arising from an inferior class of men in the distribution of water in the deltas have already attracted the attention of the officers of the department." The Hon'ble Colonel Pennycuick, the member in charge of the Public Works portfolio, said that he agreed with the Hon'ble Subba Rao in almost every word that he said. The Hon'ble Mr. Arundel was quite in accord with him and said that "he put his finger on a serious blot in the administration." In closing the discussion of that year's budget, Your Lordship's predecessor expressed himself that His Excellency "recognized the full necessity for some alteration in the supervision of the deltaic tracts and hoped that Government might be able to formulate some scheme." In the next year's budget discussion the Honourable Member dwelt upon the same subject. Again in the succeeding year's budget debate he reopened the subject, and when he expressed his disappointment at not finding any such scheme introduced, the Public Works member said that two schemes had been under the consideration of Government. The subject was again mooted in the next year and the Hon'ble Mr. Arundel held out the hope that the scheme was nearing completion. The Honourable Member sat in the Council six years reiterating the subject year after year, and retired without seeing his labours crowned with success. The same agency is still invested with the practically absolute control of the distribution of water over thousands of acres, and the evils are too notorious to need description. I earnestly hope that during Your Lordship's régime some scheme satisfactory to Government and people will soon be sanctioned and put in force.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—Your Excellency,—It is a matter for gratification that the statement just presented is a prosperous budget, and I earnestly trust that this prosperity will be maintained in the coming years. And now with Your Lordship's permission I shall proceed to invite attention to some points disclosed in the statement. Under the head of "Land Revenue", I beg to refer to the increase of assessment effected in consequence of the new settlement in Malabar. The total land revenue of the presidency, which was 431·25 lakhs of rupees in 1891–92, now stands at 567·58 lakhs. The increase during the last ten years is therefore 136·33 lakhs. The percentage of increase is over 31. As regards the new settlement in Malabar, figures were furnished in answer to a question of mine at the last meeting of the Council. The figures furnished were for six taluqs, and for these taluqs the new assessment is Rs. 24,37,815 against the old assessment of Rs. 13,23,296. The increase is Rs. 11,14,519, which means an increase of over 84 per cent. The percentages of increase in individual taluqs are fifty-five for Calicut, eighty-three for Kurumbranad, eighty-five for Palghat, and 105 for Waluvanad. Comment upon these figures is unnecessary. I would ask Your Excellency to consider whether upon any accepted principles of taxation such increases are justifiable. Does the Government think that such enormous increases can be borne by the ryots? I do not think that the ryots in Malabar are in such affluent circumstances as to be able to bear this severe burden. I am aware that this increase will not be imposed all at once, and that it will be given effect to by annual increments. It is obvious that the hardship cannot be obviated by any system of increments. I would appeal to Your Excellency's Government to see if the matter cannot be reconsidered. I am glad to note that, under the head of "Education," provision has been made for an increased expenditure of over nine lakhs, the allotment being 27·22 lakhs for the new year against 18·19 lakhs of the past year. It is well that the interests of primary education are to be satisfactorily provided for, and that the subordinate inspecting agencies are to be strengthened. But I cannot understand what necessity there is for the proposed creation of the post of an inspector with the necessary establishment for the exclusive charge of European and training schools. The number of European schools is very small, nor do I think that the training schools stand in need of special supervision. Again I see that it is proposed to create a new appointment of deputy director to assist the Director of Public Instruction. The Director has now a personal assistant, and it seems to me that a sufficient case has not been made out for this additional expenditure. Under "Police", provision is made for an increased expenditure of 1·89 lakh. But I am disappointed to see that the status of station-house officers is not to be improved. In this connection I would

respectfully suggest the desirability of forming in each inspector's division, out of the existing force, a separate section for detective duty. As it is, the time and energy of the police are frittered away on all sorts of miscellaneous routine duties, such as preservation of order, guarding of treasuries, serving as orderlies, suppression of nuisances, etc. The important duty of detection comes in only as one of the several items of their duties. A whole-time detective party will devote their exclusive time and attention to the work of detection, and it is needless to point out that such an arrangement will be a decided improvement upon the existing state of affairs. Under the head of "Law and Justice," I have to invite attention to the system of recruitment which now obtains to the post of sub-magistrates. Under the present system this important class of officers is recruited from the clerks of the revenue offices. These clerks, doing revenue duties, and sometimes criminal work under the district and divisional magistrates, cannot in all cases be supposed to have received that judicial training which is necessary for the proper discharge of a sub-magistrate's duties. The selection of these clerks for a considerable proportion of these posts may, with advantage, be supplemented by selection from other sources. While admitting the justice of keeping open higher appointments for these clerks, I am of opinion that a fair proportion of these sub-magistrates should be recruited from the bar. There are many young graduates in arts and law in the bar who are eminently qualified for these posts, and who will be willing to accept the same. This system has been followed with remarkable success in the recruitment to the posts of district munsifs. And in this connection I would be glad if the Government will see fit to address the High Court in view to increasing the age-limit of persons selected from the bar for the post of district munsifs from thirty to thirty-two. Thirty-two will be a reasonable age-limit, considering the time required to complete the arts and law course, and to acquire a sufficient training and practice in the bar. Under the head of "General Administration," I find that the work of the redistribution of divisional charges in the presidency is to be taken on hand in the current year. Now that all distinctions in the *personnel* of the several divisions have been abolished, it follows that the establishments attached to the several divisional offices will have to be equalized.

The Hon'ble Mr. G. S. Forbes:—When did this abolition take place? I think the Honourable Member is mistaken. There has been no such wholesale abolition as he assumes.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—It has been decided that the divisions are not to be known as sub-collector's division, head assistant collector's division, etc., but by local names.

The Hon'ble Mr. G. S. Forbes:—I thought the Honourable Member said "all divisional charges." The distinction has been abolished only as between sub-collectors and head assistants' divisions.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—What I said was "all distinctions in the *personnel* of the several divisions have been abolished."

The Hon'ble G. Srinivasa Rao Avargal:—I have great pleasure in congratulating the Honourable Member in charge of finance upon the prosperous budget which he has been able to present this year. It is the opinion of all that any remarks that we may make at this meeting will not affect the budget which is now before us, because it has already been sanctioned by Government and it has taken effect already. Such remarks as we may make will only be helpful in the framing of future budgets. It is a matter of great satisfaction that in this year, 1902–1903, there are so many items of expenditure in which, owing to larger grants, we have been in a position to spend more money, especially on two departments, viz., Education and Public Works. On education we are in a position to spend nearly nine to ten lakhs of rupees, and this is due to the great generosity of the Government of India. In this connection I beg to draw the attention of the Council to the fact that not only is primary education a thing which is to be attended to but also education above the primary grade. Just the other day when I was talking to a schoolmaster in Madura, the first assistant of the Native college, he was telling me that his pay and that of the principal had been increased immensely during the last five or six years, but the grant that they had been receiving was the same that they had received five or six years ago, and the grant had not been increased in proportion to the increase in pay which the school authorities had been giving to teachers. What is this due to? It is due to the circumstance that there is no money available to give them a further

grant. I have no doubt that the Honourable Member in charge of education will certify to the correctness of the statement that I now make and which I heard from the school authorities. Now that additional funds have been placed in the hands of the educational department, I hope the Government will make due provision for meeting such cases. With regard to the status of sub-magistrates, it is known that we now have not sub-magistrates on sixty rupees to seventy rupees per mensem and those that we have receive either Rs. 100 or Rs. 120 per mensem. Even this is not sufficient, considering the immense powers that have been given to them by Government. It is my desire to place before the Council for its consideration, and, if possible, for adoption, that their pay be increased to at least Rs. 200, that they be placed in a position of equality with that of district munsifs who, I must say, are the best indication of the wisdom of the British administration—the enlightened British administration--without which we should not be in a position to criticise or to supplement the work of Government. Already the Hon'ble Mr. Ratnasabhapati Pillai has said how he thinks gentlemen ought to be taken into the service as sub-magistrates. But whether that is done or not, if the pay is raised certainly persons fit to receive that pay will be brought in, and the department will be an immense glory to the country. In this connection I must bring to the notice of the Council the long cry that the public has been making for the separation of the judicial from the executive functions. Whether it will be granted all over the presidency or not, I do not know; but, so far as the separation of the magistracy from the revenue portion of it is concerned, I beg to submit that that is an important thing which needs being attended to by Government. Wherever it has been done, it has proved a success; and if it is so, it is only an argument in favour of the extension of the scheme. Looking into the budget, I find that there are some departments where the income is so great as to be out of proportion to the expenditure incurred. One such department is that of "Stamps" and a portion of "Law and Justice". Under the head of "Stamps", the Honourable Council will notice that the expenditure is only 1/32 of the gross receipts under that heading. District munsifs as a class are very hard worked, and the work they are doing is something very great in consideration of the small pay that is given. It is our duty, therefore, to try either to increase their pay or, if that is impossible, to add to the number of district munsifs, so that the strain of work upon them might be relieved to as great an extent as possible. Especially when we have money, when the department earns more than what is necessary for it, I beg to submit that it is our bounden duty to attend to the matter without any further loss of time. Another point to which I beg to draw the attention of Your Excellency and the Council is in regard to the registration department. That department is one where the income is something very great. Whether it is necessary to earn all the income or not, is a matter which I am not prepared to discuss just now. But one thing strikes me. Wherever Your Excellency went out on tour, it might have been brought to Your Excellency's notice that the charges levied by the registration department, especially in the matter of encumbrance certificates, have been so numerous that people can hardly get on with their trade or with any dealings with the registration department. Personally, I can assure the Council and Your Excellency regarding the hardships that people have been put to with reference to encumbrance certificates. At a time when we have immense money deriving from the department, it was unnecessary to have raised the fee from ten rupees to twenty rupees. Of course, reasons might be given why such an increase was made, and the reasons that will be given will no doubt be plausible. When the department yields more than what is required, and when the whole of that income is not utilised for the benefit of the department but goes elsewhere, the question is, why we should increase the revenue of that department by raising the fee from ten rupees to twenty rupees. This is a question which I have personally known as Secretary to one of the funds in Madura. I have been feeling, after the words that let fall from Your Excellency in Madura, Tanjore and other places, that the time will come when the Government will be inclined to reduce the charges for encumbrance certificates, though not to the extent that we desire, viz., to the limit laid down in the case of loans taken under the Land Improvement Act, but at least to ten rupees—that is where we were some time ago. This is a matter which, I have no doubt, will receive the best attention of Your Excellency. This is just the time when we ought to have had the provincial contract revised for another period of five years; but for reasons best known and given by the Government of India, it has been put off for another year. I do not know why they introduced a change

in the language used in the budget. To me, it looked that there was something underneath it. But whether it is so or not I cannot say. I notice that in this year's budget the Government of India has for the first time used the language "Provincial settlement"; whereas in previous years the language used was "Provincial contract". Whether there is any meaning underlying this or not, I am not quite sure. Probably there is, but whatever it may be, the wisdom of the procedure adopted in the Financial statement before this Council is something very great, in having put both the words together in paragraph 2 on page 2 of the statement. The Honourable Council will notice the words put in are "Provincial contract settlement". Whether by this the Government means anything more than what is conveyed by the language "Provincial Settlement", I am not quite sure. At all events we have in this budget the old wording as well as the new wording adopted by the Government of India. Out of our revenues it is only one-fourth, or a little more than one-fourth, that we are able to get for our expenditure. Time will be when we shall have to fight for more of our income being given to us for our expenses. There is one iniquity. I am sorry I am calling it an iniquity, but still more forcible language than this has been used by official members of the Council. One has to look into the discussion of last year and the year before last to realise what forcible language has been used by the Hon'ble Mr. Arundel and Your Excellency's predecessor. The language used on those occasions is so well known to you that it will only be taking up the time of the Council to repeat it or to read passages here and there from their remarks. But considering the language that has been used by them, what I say—viz., iniquity—is not much at all. I am not for one moment anxious to enter into the discussion of the thing, and all that I want to point out to this Council is that the other provinces, for instance Bengal presidency, were getting less at a time when we were getting more, but to-day they are getting more and we are getting less. I really do not know how this has come to pass. I have not been able to go into the statistics of the past to find out how the position has come to be reversed; but one thing is certain, that the whole income that we get is just sufficient for the immense expenditure that we have to incur every year. Our revenues are on the increase every year. Is it not curious that our revenue should be increasing and what we get is only just sufficient for our expenditure? In these circumstances, we shall only be doing our duty towards ourselves and the Government, if we, in Council, resolve upon placing the matter so forcibly as to induce the Government of India to give us everything that we ought to have. A few years ago, Your Excellency's predecessor put the matter very forcibly before the Government of India, and if this time also we should do the same, we shall get more, and there is not the slightest doubt that the next time when we meet in Council to discuss the budget, we shall have funds more than necessary for all the purposes for which they are sorely needed and which have to be attended to. Then certainly will be the time for the public to feel thankful to the Council and to Your Excellency. With these few words, I beg to request Your Excellency to attend to this important matter which will place the Government in a position to serve better the country at large.

The Hon'ble C. Jambulingam Mudaliar Avargal:—May it please Your Excellency,—After the remarks made by my predecessors, I have not much to add. I would follow their example by congratulating the Government on the prosperous budget which has been placed before the Council, and by expressing the gratitude of the people of this country to the Government of India for the great liberality which it has shown towards this presidency in this year. Last year we had to get funds from the Government of India to bring our closing balance up to the customary minimum; but this year our own resources have so far improved both on the receipt and the expenditure sides that we are enabled, together with the special grant of the Government of India, to open our budget very prosperously and to close it equally prosperously. The only thing noticeable is that of these several assignments or grants, only two grants are recurring grants, so that we may take it that when the new Provincial contract is framed next year or at such time as the Government of India may be pleased to frame it, only these two items would be permanent items. At the same time, we find there are two other items which are simply grants for the year, special assignments for the year, which we cannot expect in future years. For example, ten lakhs of last year and five and a half lakhs of this year for expenditure on communications and feeder roads and such other purposes are of that nature. Though we are thankful for these doles and these special assignments which enable us in this particular year to give attention to

special improvements, which might be most desirable in this presidency, yet there is one thing that is disadvantageous in having such special grants for a single year. It is perhaps spent, as it must be spent within the year, on purposes which may not be very necessary or very important; whereas if we had a longer time to spend that amount, and if we had the certainty of that amount or even a smaller amount recurring year after year, we might have definite schemes on which such sums could be spent. That remark is not made by any means with the intention to depreciate the value of that grant, but only with a view to indicate the possibility of the money not being spent on the most useful and very necessary objects. As a result of these special grants, Your Excellency's Government has been able to give greater grants for various purposes and education has been most fortunate. I congratulate the Director of Public Instruction on the fact that for the next year he will not repeat his chronic complaint of want of funds, a complaint most justly made which the Government was unable to meet. That department of service has been most generously treated with a grant of eight lakhs of rupees and special arrangements which are made for the purpose, of specially helping the primary department are most appropriate, and I doubt not that this encouragement given to primary education will greatly further the cause of that education. Equally so is the amount that has been assigned for the purpose of expenditure on Public Works. Sums have been allotted for various works of importance, as shown by the list placed on the table, and the most important expenditure that will be appreciated by all people, ryots and others in most needy circumstance, is the provision of 1·50 lakhs for minor irrigation works and of 1·92 lakhs for the tank restoration scheme—works that are necessary in these times of continued drought and short rainfall. The other items of expenditure on the various purposes mentioned in the list are very important and will, no doubt, be appreciated by persons for whose benefit they are intended. I should just like to add a word with reference to the remark that fell from the Hon'ble Mr. Yorke that eight lakhs and five lakhs given as special grants by the Imperial Government, the one for educational purposes and the other for roads and communications, should be transposed, eight lakhs being allotted for roads and communications and five lakhs for education. Instead of putting it in that form, it would be better to say that we shall have eight lakhs and something more for education and that we shall also have eight lakhs and something more for roads and communications. That will be a more appropriate form to put it in, because in this country education stands as much in need of money as roads and communications. The field for developing primary education is almost unlimited. It was on the passing of the Madras Local Boards Act of 1884 that the work of carrying on primary education in rural parts was handed over to the local fund boards, and the Government withdrew from that department of education, and the expenditure on primary education up to the fourth standard, was to be defrayed by local funds. Since then, the progress has been steady and gradual, till, I should say, the present time when we have reached the utmost margin of expenditure, so far as local funds are concerned, and it is not possible, without starving other services, to spend more money on primary education. The question has come to this: whether we shall further proceed in the advancement of the primary department and avail ourselves of the full field of that department by finding funds from some other sources, or whether, seeing that the local funds have reached the utmost margin of expenditure for that department, we shall stop and starve that department of education. The fact that the Government of India has sanctioned eight lakhs for the purpose, the largest grant among the various assignments made, points to one conclusion that the Government has arrived at the undoubted conclusion that it is necessary to proceed in the same path of progress in educating the masses, and the Government places great faith in the fact that mass education is one that is necessary for the elevation of the people. Communications are necessary for the material development of the country; but it is not appropriate to institute a comparison between education and communications. All that those who have the interests of the country at large could do is to advocate both causes equally and to urge for advancement in both directions. It is not possible to institute a comparison and to say that one thing is superior to the other. I have just a few observations to make with reference to individual heads of the budget. It is highly gratifying to see that after a series of years commencing from 1898, which showed a revenue of 554 lakhs only, we have come to 567 lakhs. You will find on page 3 of the budget it is stated. "The revised estimate takes into account the decrease in water-rate on dry lands and increase in season remissions due to the

deficiency in the rains of the south-west monsoon." The next paragraph says "The budget estimate for 1902–1903 counts upon a smaller outstanding balance at the beginning of the year, places the season remissions at a lower figure and anticipates a larger percentage of collections." I have no doubt whatever that the Government is in possession of the necessary data for taking a more hopeful view of the coming year. I do not know how my remarks, which I make with reference to the Ceded districts, will affect the figures here, but judging from the prospects of the Ceded districts at present and the great drought that still exists in the Cuddapah district, I do not know if it would be possible to hope for a lower season remission and anticipate a larger percentage of collection, so far as those districts are concerned. Considering that the figure given here refers to the whole presidency, I do not know if this remark will materially affect it, the remark applying only to two or three districts: but still it is a fact which has to be borne in mind, that this hopeful view cannot be entertained with regard to the Ceded districts. It is stated on page 12 under "Famine Relief" that "no provision for famine-relief expenditure was included in the budget estimates for 1901–1902, but a supplemental grant of one lakh was subsequently sanctioned by the Government of India. Expenditure was incurred in the districts of Cuddapah, North Arcot, Anantapur and Chingleput, and relief measures came to a close in January." I am well aware that about the end of last year there was a slight improvement in the Cuddapah district, and there was improvement in prices also. But at the present time it can hardly be considered that the prospects are very encouraging. Speaking of Cuddapah itself, it is hardly possible to get drinking water, inasmuch as the sources of supply have already failed and we cannot have water in the pipes for more than one hour a day. With regard to forests, that source of revenue is one which is most to my heart, because it is one which should worry the people least if properly administered, it is in the nature of commercial revenue and does not fall on the people in the nature of taxation except it be that grazing fees can be called in that way. I quite see that grazing fees do act as restriction; but it is necessary that we should have some kind of restrictions either in the form of licenses or fees. One complaint repeatedly urged, one that has been urged before Your Excellency when on tour, is that reserve limits are brought into too close proximity of villages which cause annoyance to the people by the villagers and the forest officials being brought into constant friction. I am happy to learn that this matter has engaged the attention of Your Excellency's Government, and some investigations have been made as to where and in what parts this hardship exists. I very respectfully submit that if that one cause of grievance is removed, the rules and regulations for the administration of forests are everything that can be desired; and provided that they are sympathetically administered by the officers in charge of the department, there will be hardly room for complaint in that direction. One thing, which to me looks inexplicable is to be found under the head of "Registration." The budget estimate for 1901–1902 and the revised estimate of the same year are 6·50 and 7·40 respectively. The same figure, viz., 7·40, has been repeated as the budget estimate for 1902–1903. The reason for this increase in the revised estimate is stated thus:—"An abnormal increase both in registrations and collections occurred during 1900–1901 as a consequence of the failure of rains in several districts, of the rise in prices, of the great demand for food-grains in Western and Northern India, of the revival of the ground-nut trade in South Arcot district . . . " The increase is described as abnormal and the causes that have contributed to this increase are described as special causes and therefore it is somewhat difficult to understand how the same figure could be repeated for the budget estimate of the year. Perhaps there is some explanation and I make this remark subject to that explanation. Under the head of "Law and Justice", there is one remark which has been made before this Council several times in the past either in the form of interpellation or in the course of speeches in connection with the budget. That is with reference to the process service establishment. It has been repeatedly pointed out that the income from the process service establishment which is treated as process service fund is very large and far in excess of the needs for the maintenance of that establishment. It was also pointed out that there was a difference in the rates of fees levied in the district courts and the sub-courts on the one hand and the district munsifs' courts on the other, the charges levied by the munsif's courts being half of those levied in the district and sub-courts. So far as the establishment is concerned, the same establishment serves the process in the district and sub-courts and district munsifs' courts. Under the system now called

the central nazar system, all the process work is under the general control of the department in the district court. If that is so, there is no reason why a differential rate should be levied, why half a rupee for every process issued from the munsif's court and one rupee for a process issued from the district court should be charged, though the process in the latter court is served not by the establishment in that court but by the establishment in the district munsif's court. I believe there was no particular reason for this differentiation. If there was a reason for this differentiation, it was suggested that the extra money that was derived from these fees might be utilised for the improvement of the judicial machinery or of affording additional comforts to the suitors that come before the court or other persons that have business there, or for the improvement of law libraries, because that is the money specially paid by suitors and litigants for special service rendered to them and there is no reason why this money should fall into general funds and be mixed with the general revenues. Suggestions of this kind have been made by me on some occasions and by my honourable friends on other occasions and it was said that investigations were being made and steps were being taken to see what could be done. I do not know if anything has been done in the matter, but it is one which deserves consideration. The next subject is "Police". It is a matter for congratulation that we are just now in the path of improvement. We have begun with the presidency police and allotments are to be made for the reorganization of the presidency police, which is an earnest of what is going to happen with reference to the mufassal police. I am aware that there is a commission to sit and investigate on the improvements to be made in the police department, and when the labours of that commission are completed and the report is out, then, I think, there will be material improvement in the police force of the presidency. With regard to one branch at least of the police force considerable improvement has been noticeable in recent years, specially in the department of inspectors and assistant superintendents, both in point of recruitment and training. It is hoped to make further improvement with the aid of the police school at Vellore which is the proper training ground for these people. But whatever the amount of improvement may be, affecting the higher grades of police, viz., inspectors and assistant superintendents, unless the rank and file of the police force is improved materially and a better set of men are brought in and induced to take up service in this department, it is impossible to expect substantial improvement in the general tone of the police force, simply because there is an improvement in the higher grades of the force. Under the head of "Scientific and other minor departments" there is one branch about which I made some remarks last year, that is, as to the trade in aluminium. There was a time when this industry was unknown in this part, and the Government very liberally expended its funds to start this industry and show the people the usefulness of this industry; but I think the time has arrived, unless there are particular reasons to the contrary, when the Government could fairly withdraw from this trade and need not keep up the show of competition with the efforts of private trade in this direction, because I am aware that there is a large private industry even in this city and other places like Kumbakonam where private men have started large works and the market is full of aluminium wares. Unless there is some reason for the Government to continue this industry, even though it be a source of some income to it, it seems to me that it is not worth the while of Government to continue this industry, especially considering that private trade has taken it up. There is one thing under the head of "Contribution" which I am unable to understand and I refer to it only with the view of obtaining information. Credit is taken for the recovery from the district boards concerned of expenditure on the block survey and classification of whole inam villages to be incurred in the first instance from provincial funds. To me it seems difficult to understand why local funds and district boards should pay the expense of survey and classification of inam villages.

The Hon'ble Mr. J. Thomson.—The inam villages in Tanjore belong to the district board and are under its control.

The Hon'ble C. Jambulingam Mudaliyar Avargal.—If it refers to a special matter like that I have nothing to say. It looked as if it has been laid down as a principle that district boards should pay for the survey and classification of inam villages for which there is no warranty.

The Hon'ble Mr. J. Thomson.—If they have property?

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal.—If that is so, it is all right. With that explanation I am quite satisfied.

The Hon'ble Mr. H. M. WINTERBOTHAM.—How is local cess to be fixed without that survey? Local cess has to be fixed in accordance with the Act. Without survey and classification, how are the district boards to find out the rate of assessment on which the local cess has to be calculated?

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal.—It will proceed on the rental.

The Hon'ble Mr. H. M. WINTERBOTHAM.—The law is not so. The district boards are having the block survey made to find out what the assessment is. They have done it in Tanjore and Nellore, and the survey is now in progress in Kistna.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal.—But survey and classification is equally necessary in the interests of Government. These are just the few observations that I intended to make. There is hardly any occasion or necessity as we have had in former years to bewail the state of the budget and express a feeling of dissatisfaction, because everything this year is a matter for congratulation and satisfaction.

The Hon'ble the Rev. Dr. MILLER.—My remarks will be very few. There are just two points to which I wish to direct attention. I join with all those who have spoken before me in congratulating the Government on the hopeful position of its financial affairs, and as one specially interested in education I must express my gratification at the large and liberal allowance that is being made for education to the entire community. It is with respect to educational matters in the budget that I wish to make two observations. One of them refers to the proposed completion of the "Victoria hostel," as it is put here. I hope and trust that "hostel" is really a misprint and that it means the completion of Victoria "hostels," because the original scheme which, I trust, will now be completed included the erection of two Victoria hostels and not one alone. I gather from the statement of the member in charge of the budget that it is contemplated to spend a sum of between sixty thousand and seventy thousand on the much-needed provision of hostels for the students of Madras. I should like to remind the Government of the fact that when the scheme was started, I think about eight years ago, the intention was to provide one hostel for the students in the southern parts of Madras and another for the students whose residence and education lay in the northern parts of Madras. Great provision has already been made for the former, but absolutely none for the latter. The facts, Sir, are these. In the north of Madras there are—I am not speaking by the book but speaking roughly—somewhere about 1,500 or 1,600 students receiving education, and in the southern parts some 500 or 600. The hostel, at the existence of which I most unfeignedly rejoice and which has already been erected, is so situated that it benefits only the 500 or 600 students in the southern parts of Madras. No doubt a few stray cases may occur in which two or three of the 1,500 or 1,600 students of the northern part of the city may find it to their advantage to make use of the existing hostel, but that is the mere exception which proves the rule. A large sum of money —I do not know how much, perhaps Rs. 60,000 to 80,000—has been spent from public funds for the benefits of these 500 or 600 students, but hitherto not one rupee has been spent from public funds for the benefit of the other 1,500 or 1,600 students. I find in the budget that it is now proposed to make a grant to a hostel which is in course of erection for the benefit of the students in the northern part of the city, and I desire most humbly and heartily to thank the Government for the help that it has given to my own humble efforts in this way, and for the benefit that will thereby accrue to the student population in the northern part of the city. That, however, is a very small matter. The provision for which I most unfeignedly thank the Government will only be enough to provide for about one-third part of the expenses of giving hostel accommodation to some forty or fifty students, a very insignificant portion indeed of the 1,500 or 1,600 whose interests lie in the northern parts of the town. Sir, it must be kept in mind that when this movement was inaugurated some eight years ago, it was an essential part of it that there should be a hostel in the northern part. Subscriptions were invited upon that footing, and as one who was a member of the committee, and I think I may say a moving spirit in the whole institution of the movement, I certainly hold that, unless some provision is made for the wants of the great majority of the students in Madras, whose interests lie in the

northern part of the city, the whole scheme will be upon a false foundation; and I do trust that the money that is now about to be spent will be spent with some equality at all events between the interests of one class of students and of the other. Of course, these remarks are quite unnecessary and beside the point, if, as I venture to hope, the intention is not to complete one existing hostel but to complete the scheme that was set agoing eight years ago; and I think that whatever is done now should be certainly to promote the welfare of the great bulk of the students, for whom nothing whatever has hitherto been done from the public funds, rather than to increase the benefit to the comparatively small number of students in the other end of the town, for whom so very much has in this direction been done already. I rejoice in all that has been done for the 500 or 600 students on the one side, but I do trust that something efficient will be done for the 1,500 or 1,600 students on the other side; and unless it is done, I think there will be grave cause for complaint at the failure to carry out the scheme which was launched practically by Government in the year 1884. That is one point. The other point that I wish to touch upon is the proposal to have an inspector of schools with the necessary establishment for the efficient supervision of European and training schools. I most entirely agree with the idea that some of the newly-obtained educational funds should be devoted to the increased efficiency of the inspectorial staff. There is nothing on which, I hold, it is more beneficial and more necessary to spend funds than on making the inspectorial staff both larger and more efficient than it is. The efficiency of that system of relying on private effort, which I always have maintained and still maintain to be the only hopeful means of spreading the benefits of education throughout the entire community, largely depends upon inspectors; and the extension of the system of grant-in-aid postulates increased efficiency of and probably increased numbers in the inspectorial staff. Of the spending of more money on inspection, I do not in the least complain. I entirely approve of it. But I gravely doubt whether it is advisable to divide inspectors in the way now proposed, into inspectors for one class of schools and inspectors for another class of schools. It does seem to me that a man should be a king in his own country, and that he should have all kinds of education in the district entrusted to his care and under his control. I do not at all like this idea of sending inspectors of one class of schools all through the country in the midst of what I may call the dominions of local inspectors. I think it is likely to result in the clashing of interests, and in a division of effort which is undesirable in everything and perhaps most undesirable in regard to education of all things. If it is not too late to make the suggestion, I would humbly ask the Government to consider whether the efficiency of the inspectorial staff cannot be secured in some other way, so that there shall not be different inspectors for different classes of schools, but that an inspector in a given district shall have all classes of schools under his care and control. Of course, the districts are to be divided where it is necessary to do so, and I am glad to see—I do not know the details and I have no doubt that the details are all right—that the districts which are too large for efficient inspection are to be divided. Continue that process rather than introduce special inspectors, who will have special interests and who will probably pull in different directions for the disposal of funds and in all things connected with education. These are the two points that I think it desirable to speak on. The first is a local one; but, considering that Madras is the seat of the University and by far the greatest centre of the student population, and considering that the interests of the great majority—the enormous majority—of the student population of Madras have, in this respect, hitherto been entirely neglected, as far as the provision of public funds is concerned, the point is one of considerable importance. I do most heartily thank the Government for the provision they have made—and I hope they will increase it—for the hostels in which I am particularly interested, which are for the benefit of students of the northern part of the town but which are on too small a scale to do anything adequate to meet the great and urgent wants of students.

At this stage the Council adjourned and reassembled at 2–55 P.M.

The Hon'ble Mr. A. W. B. Higgens:—Your Excellency, two of the non-official members have made some remarks with reference to the forest department, of which I have the honour to be in charge in the Board of Revenue. Perhaps it might be as well for me to explain the points that have been raised by them. The Hon'ble Mr. Perraju Pantulu, as I understand him, says that the cattle have to be driven

away from the deltas of the Kistna and Gódávari in the cultivation season and taken into the forest reserves, where they die in large numbers. I do not understand why they should die, because we endeavour, at all events, to provide in the forest reserves a supply of fodder for them to live upon. I should like to assure him that we endeavour to improve the forest reserves to the best of our ability. There has been a great deal of time spent in the settlement of reserves, and up to this time the settlement has not yet been completed all over the presidency, though it is completed in a great many of the districts. The time has now come for the introduction of working plans by which the capabilities of forests may be ascertained and definite schemes laid down, which will make it possible for us to provide from the forests all that the forests can produce for the benefit both of the ryots and their cattle. In regard to the fuel depots about the necessity for providing which he made some remarks, I would say that there is no difficulty on the part of the forest department, as far as I know, in establishing fuel depots, provided that a sufficient demand exists. We should naturally be only too happy to meet such a demand, provided fuel can be sold at reasonable rates. If the Hon'ble Mr. Perraju Pantulu can suggest places where such depots are required and applications are sent in for them, no doubt his suggestions will receive the fullest consideration. I am exceedingly glad to hear from the Hon'ble Mr. Jambulingam Mudaliyar what is no doubt a well-considered opinion that the rules and regulations of the Forest department are, in almost all respects, all that can be desired. That is a sort of criticism which one is not always accustomed to hear—from a man of his experience: it seems to me a very valuable statement. I am glad also to see that he takes the sensible view that grazing fees are necessary for the upkeep of reserved forests which are to provide fodder for cattle. In regard to the general complaint that he makes about the forest limits being placed too near villages, I would say that not only have inquiries been made about it, but that definite orders were issued in October last, that wherever forest limits do come near to houses or to irrigated lands, those boundaries should be set back so that they should not interfere with the convenience of people who live in the houses or of the ryots who cultivate the lands; and a general order was issued, at the same time, that the boundaries of all forest reserves should be used as pathways both by men and cattle.

The Hon'ble Mr. J. N. Atkinson.—Your Excellency among the general chorus of praise which has been so freely lavished on the budget this year, I think the only gentleman among the Honourable Members opposite who indulged in any serious criticism was the Hon'ble Mr. Perraju. It was perhaps with a little disconcertion that I heard him say that there was no such thing as an agricultural department. That is what I understood him to say. At any rate, he addressed himself principally and in a large measure to what he called the wants of the agricultural population. Therein he spoke first, if I remember aright, of what he called the village commons. He pointed out that what are called porambokes or village commons were in process of time rapidly disappearing and he called upon Government to take steps to replace them. I do not know if he knows that this question of village commons is one of the minor difficulties of district administration, especially, perhaps, in districts like Gódávari, Kistna or Tanjore where all the available land is used for cultivation purposes. In every village there are Government porambokes, cattle-stands and *donkas or puntas*, as they are called, in Kistna, and the tendency is almost irresistible on the part of ryots to encroach on them in some cases and in other cases to apply for them for cultivation. The Hon'ble Mr. Perraju himself used the expression that sheer necessity compels the ryots to bring every inch of land under cultivation and thereby, as I said, to encroach upon the village commons. He says that if these have been encroached upon, it is the duty of the Government to replace them. I think he used the word "acquire". I do not know if he meant that the Government should give away the village commons and then go to the expense of purchasing them back. As Collector of Kistna, it was once or twice urged on me that we should not interfere with the encroachment on village commons and that the prohibitory assessment which we used to impose for preventing encroachments should not be charged; that is to say that we should acquiesce in the gradual bringing of these commons under cultivation and when they had vanished, it was our duty, in the interests of the ryots, to replace them. That, you will see, is impossible. The only way to keep up these commons is to continue the practice of levying prohibitory assessment whenever they are encroached upon and rigidly refuse to sanction their being brought under cultivation, however strong a pressure may be brought by the ryot. Speaking of the

agricultural department, the Hon'ble Mr. Perraju desired to have various matters attended to. He suggested that modern agricultural implements should be kept in stock—that is what I understood him to say—that they should be available for hire by the ryots at cheap rates, that seed-grain should be available for purchase at cheap rates and there should be more experimental farms and other items of that nature connected with the agricultural department. As regards implements, I think it would surely be impossible that we could keep a supply adequate to the wants of the ryot population. I do not think that he could have made this suggestion seriously. As regards experimental farms, two have already been started last year and one has been started this year in the Gódávari district, specially for experimenting in regard to sugarcane disease. I hope that, in the course of a year or two, farms will fully develope; but we cannot go too fast. It would be impossible and out of the question to launch forth at once into the policy of starting farms in every district, as has been suggested not on the present occasion but at other times. Then there was another suggestion that he made. He referred to a former request that was made at the last meeting, in which he wished the Government to institute inquiries to ascertain the indebtedness of the ryot population. The Government said that they were unable to institute such an inquiry, but he has pressed the matter upon them, as I understood him, in his speech to-day. Apart from the immense expense and trouble that would be caused by such an inquiry and apart from the objection that might be raised to such an inquiry, on the ground that it would be an inquisitorial investigation into the most intimate and private affairs of the ryot population, I cannot see what benefit could be secured by such an inquiry. Supposing, as a matter of fact, it is ascertained that the ryot population is generally poor, what would be the result? What action would the Hon'ble Mr. Perraju expect the Government to take? I cannot myself see what object could be served by such an inquiry. Moreover, it may be admitted that, generally speaking, the ryot population of the country, the cultivating population of the country, as compared with that of other countries is, in a sense, absolutely poor. But whether it is so relatively is another question. There was a meeting in London not long ago which was addressed by a distinguished retired Indian civilian. If I remember aright, he pointed out that the normal condition of the cultivating classes of the country is that they are poor, and according to the customs, the religious and social customs of the country, they can never hope to be anything else. As long as the present religious obligation remains that a man must beget children and must have as large a family as possible, and as long as there is no encouragement, no incentive, no desire on their part to save money, to cultivate thrift, so long it must be that the population will always be at the very margin of comfort. Therefore, I cannot say what benefit would be served by any inquiry that was made for ascertaining the indebtedness of the agricultural population. The Honourable Member also mentioned the subject of delta superintendents; but I am not prepared to answer that point entirely. I can only go back to my former experience as the Collector of Kistna district and say that in my belief there was perhaps some ground for saying that the delta superintendents did offer room for complaint. But the great question is how matters can be improved? I do not think that any increase in the scale of pay of the delta superintendents will have any good result. That is a panacea that is often mentioned. We have heard it mentioned to-day that by increasing the pay of the police we hope to get more honest police; and, therefore, in the same way by increasing the pay of the delta superintendents, perhaps it may be possible for Government to get more honest delta superintendents. But I am bound to say that a mere increase of pay will have no such effect. I am sorry to be such a pessimist as that; but, I think, gentlemen opposite will agree with me that such is the case—that no small increase is likely to affect the honesty or dishonesty of officials. The only other remark that I wish to make is with reference to a few things spoken to by the Hon'ble Mr. Jambulingam Mudaliyar. He spoke on the subject of season-remissions and he expressed a hope that the provision or rather the anticipation of the budget would be satisfactory and, at the same time, issued a warning that, so far as the Ceded districts were concerned, the season was not satisfactory and the prospects were not encouraging. This is hardly the time of the year when one would speak of the prospects of the year being encouraging. Whatever the season is going to be, it is already. The cultivation season is over and we do know that the season has not been very good in parts of the Ceded districts—it is only in parts. In parts of these districts crops have been good and there is no fear of any trouble; but for the rest very liberal proposals have come in for remissions, and these proposals

were read out in answer to one of the questions this morning, and I think they are pretty sure to meet the wants of the case. The Hon'ble Mr. Jambulingam Mudaliyar also remarked that there was no provision for famine relief and has again emphasized the point that, in the Cuddapah district, at any rate the affairs of the district are not satisfactory. According to the information which I have been getting—I get it constantly from the Ceded districts—there is no necessity to anticipate, I assure the honourable gentleman, any relief measures, unless, of course, the south-west monsoon fails. At the present moment, one must go on the assumption that the south-west monsoon will not be a failure, and there is not the slightest reason to anticipate that the rains will not be up to the average. Till then, there is not the slightest reason to think that there will be any necessity for special measures of relief. What is going to be done at once is that a very large programme of ordinary works under irrigation, both minor and major, and a very considerable programme of works by local fund bodies which are budgeted for are being started at once; and I have it on the authority, not only of the district officials but also of the non-officials, that these works will afford ample employment and probably more suitable employment than famine works proper and will supply all that is likely to be needed for labour before the ensuing monsoon.

The Hon'ble K. Perraju Pantulu Garu:—Will your Lordship permit me to say one word in explanation of what the Hon'ble Mr. Atkinson just said? I did not mean that there was no department bearing the designation of agricultural department. What I meant was there was no agricultural department to study the possibilities of increasing the productivity of land and diffusing such information among the ryots. If Your Lordship will excuse my candid expression, I say that the administration is rather top-heavy and there is no administration on the spot to give object lessons and to give useful information to the ryots.

The Hon'ble Mr. G. H. Stuart:—Your Excellency, the criticisms on the educational part of the budget have been few in number and they were not of an unfriendly character. I shall not, therefore, have much to say about them. The Hon'ble Mr. Yorke has expressed his desire that the increased allotment for education might be exchanged with the allotment for roads and communications. The increased allotment put down for education is the least amount that is required to fulfil our obligations towards the existing schools, and it is not intended to use it on or to create new schools. It may be somewhat comforting to the Honourable Member, if he remembers that in the disposal of local funds it is the rule that fifty per cent. of these funds shall be spent on roads and communications, and it is very seldom the case that more than fifteen per cent. is spent on education. A part of the increased expenditure on education is required to subsidise local boards, so that they may still be able to spend half their income on roads and communications. The Hon'ble Mr. Ratnasabhapati Pillai has said that he considers that the proposed appointments of the inspector for training and European schools and of the deputy director of public instruction are unnecessary. I am afraid I cannot agree with him in that. I think there is no appointment more necessary than that of the inspector of training schools. With regard to European schools, it is the Government of India that insisted upon the necessity for a special inspector being appointed; and the most economical arrangement appeared to be to have one inspector for these two classes of schools. Even now I do not know if this will suffice. It is no use spending additional money upon primary education unless we take care to improve the quality of the existing teaching, and that cannot be done without paying special attention to the nature of training given to teachers. The Hon'ble the Revd. Dr. Miller has expressed a preference for the existing system under which the inspectors of ordinary schools also inspect training schools. But I have come to the conclusion that something more than that is necessary. An inspector of ordinary schools has generally to fix the grants and has to decide whether a school continues to be maintained in such a condition as to deserve the grant; but the inspection of training schools is very much more detailed than that. From what I have seen of them, I am not at all satisfied with the state of training schools at present. I am sure they require much more special attention than the existing inspectors, with their large circles, can give them. Therefore, I think they should be placed under a special officer. That has already been done with regard to another special class of schools—technical schools. They were formerly under the inspectors of ordinary schools, when it was found that they did not get that amount of attention which it was desirable that they should have; and different

inspectors had different views upon the ways of maintaining these schools. It was thought that better results would be obtained by placing them under a single inspector. I think the results, as far as they have gone, have been successful. And I have no doubt that the same will be the case with regard to the training schools, if placed under a special officer. The Hon'ble the Revd. Dr. Miller must be aware that this is what is done in England—there is a special inspector of training schools there. With regard to the appointment of a deputy director, it is not for me to say very much. The Hon'ble Mr. Ratnasabhapati Pillai has said that he does not think that a case has been made out, but the Government of Madras has been satisfied that a case has been made out and so has the Government of India. If the Hon'ble Mr. Ratnasabhapati Pillai were not such a busy man as he is and if he could spare time to spend a week or two in the office of the Director of Public Instruction, he would very soon see cause to change his mind. The Hon'ble Mr. Srinivasa Rao pointed out that we have not been able to increase that particular kind of grant known as the salary grant, whenever managers of schools have increased the salary of their teachers. Salary grant consists of a definite proportion, say half or one-third of the salary paid to teachers; and, according to the grant-in-aid code, this proportion is the maximum of aid that can be given to teachers, and we do not pretend that we can always work up to it. We have to consider the limited funds placed at our disposal. But I hope, however, that in this year we shall be able, with the increased funds that have been placed at the disposal of the department of public instruction, to meet all cases of real hardship, to satisfy all reasonable demands in respect of salary grants. The Hon'ble the Revd. Dr. Miller has made some remarks about the special grant to the Victoria hostel and wants to know whether the word "hostel" is not a mistake for "hostels." It is not. The whole of the grant for the Victoria hostel is meant to be expended on the existing hostel in Chepauk park. The honourable gentleman has said that from public funds there has already been expended Rs. 60,000 to Rs. 80,000 upon this particular hostel, which he calls the southern hostel. That is not quite correct according to my recollection of the figures. The circumstances in which this hostel was erected must be at least as familiar to the honourable gentleman as they can be to me. The proceedings were all public, and although they happened some years ago, I have no doubt he recollects them. The origin of the hostel was a desire to perpetuate the memory of a distinguished professor of the Presidency college—the late professor Ranganadham; and the then acting Director of Public Instruction considered that a very suitable form of memorial would be a hostel attached to the Presidency college. Subscriptions were invited and the scheme grew until it was determined that something very much larger than that should be established as a memorial to the late professor Ranganadham. There was a certain amount of opposition to it on the part of those people who were interested in colleges not near to the Presidency college, because they thought that the Presidency college would get more benefit from the hostel than others. That was got over at the meeting held in connection with the matter by a declaration from Sir Savalai Ramaswami Mudaliyar that he himself would erect a second hostel, with the assistance of Government, in the northern part of Madras, it being understood that all the subscriptions received for this scheme should be devoted to the hostel that has now been partly erected. The late Maharaja of Vizianagram subscribed Rs. 25,000 and the general public subscribed a somewhat larger amount. I do not remember exactly what it was; I think it was Rs. 30,000 or Rs. 40,000, and the Government contributed Rs. 25,000. Sir Savalai Ramaswami Mudaliyar declined to receive any public assistance for the hostel which he contemplated building, but was willing to receive the Government grant of Rs. 25,000 similar to that which was given for the other hostel. He himself promised, I think, Rs. 50,000. The subscriptions including the subscription of the late Maharaja of Vizianagram and the Government grant were expended on erecting the present building in Chepâk park. Why the other building was not erected, I cannot say. I do not know what has been the cause of the delay. I understand that the Government is quite ready, as soon as the building is erected or is in course of erection, to contribute Rs. 25,000, which it promised, and in fact in the improved state of its finances, I daresay—although I cannot speak with authority—the Government might even increase that amount. It increased the amount for the existing Victoria hostel by Rs. 12,000 and the total amount contributed by Government for the existing hostel is, therefore, Rs. 37,000. I have no doubt that Government will be willing to contribute an equal amount to the other hostel, if it is erected. The whole of the special grant that is now contributed out of

the special gift is to be devoted to the present hostel, and anyone who has seen the hostel must be convinced of the necessity for improvement. The foundations of one part have been put in, and they are, what I may call, an eye-sore, and it is necessary to erect the building thereon. There is no desire to benefit one side rather than another. These public subscriptions were intended for that particular side of Madras and the Government supplemented those subscriptions by a grant. When similar subscriptions, either from the public or from an individual member of the general public, are raised to build a hostel in the north or in any other part of Madras, I have no doubt that the Government will be ready to make its grant-in-aid. With reference to the Hon'ble the Revd. Dr. Miller's remarks with regard to the inspector of training schools, I have already answered them in what I said in reply to the Hon'ble Mr. Ratnasabhapati Pillai. Of course, there is room for difference of opinion in everything of this kind. My opinion is strongly in favour of having a special inspector for this special class of schools and I am sorry I am obliged to differ from the Hon'ble the Revd. Dr. Miller in this respect.

The Hon'ble S. SRINIVASARAGHAVA AIYANGAR Avargal:—Your Excellency, I beg permission to make a few observations in connection with the recent alleged enhancement of fees levied for searches in the records of the registration department for the discovery of registered transactions connected with specified properties, alluded to by the Hon'ble Mr. Srinivasa Rao. It is true that the rule on the subject was recently revised, but the revised rule has not enhanced the rate of the fee but merely has made the fee leviable *proportionate* to the work done by abolishing the maximum limit of ten rupees. The case stands in this way. Under the old rule the fee leviable was two rupees for the first year of the period in the records of which the search was to be made and eight annas for search in the records of each subsequent year in which the search was continued, subject to a maximum of ten rupees. This meant that where the search was made for a period up to seventeen years, the fee paid was in proportion to the work done—two rupees being paid for the first year and eight rupees for the subsequent sixteen years at the rate of eight annas for each year—and where the search was continued for any period in excess of seventeen years, the work done as regards the excess period was gratuitous or not charged for. The old rule was passed in the infancy of the registration department, when it had not been in existence for more than twelve or fifteen years, and then and for some years afterwards the limit of ten rupees did not operate unequally to any great extent, the excess period for which no charge was made being small. Now the registration department has been in existence for nearly thirty-eight years, and both owing to the lapse of years and great expansion of registered transactions the registration records have increased enormously, and go on increasing day by day, and with them the work of making searches in them has likewise increased enormously. Often it happened that where an applicant for a search applied for search in the whole period of thirty-eight years, while for his purposes a search for, say, twenty years might have been sufficient, simply because he had nothing to pay for the search for the period of twenty-one years over and above the first seventeen years, the fee levied was therefore entirely incommensurate with the work done. To remove this anomaly the revised rule was passed, abolishing the maximum limit of ten rupees. Under this rule up to a limit of seventeen years the fee levied for searches is the same as under the old rule, and where this period is exceeded the applicant is required to pay eight annas for every additional year for which the searches are continued. The additional charge is entirely a fair one, considering the great labour involved, and its imposition was necessary to check the tendency to apply for searches for a longer period than was actually needed, simply because the results of the search could be availed of without paying for them. Whether in regard to this matter any special concessions should be granted to co-operative credit associations, and such like societies which lend money on favourable terms to agricultural classes under adequate guarantees, is a separate question and will no doubt receive consideration from Government in due time, when the question of assistance to be granted by Government to co-operative credit societies and such like societies under consideration in connection with the proposal of the agricultural banks committee is finally settled.

The Hon'ble Mr. G. S. FORBES:—Your Excellency, there is only one small point referred to by the Hon'ble Mr. Jambulingam Mudaliyar upon which I may offer an explanation that may be satisfactory to him. On page 14 of the financial statement there is a reference to the survey and classification of whole inam villages and he asked why local boards should make the survey at their own cost. The answer to that is that

these surveys are made for the benefit of the local boards. Under section 64 of the Local Boards Act, the cess that local boards levy is on the "rent-value" of land, which in the case of inam lands is the full assessment which such lands would bear if they were not inam. To ascertain what the proper full assessment is, there must be a survey in most, if not all, whole inam villages where nothing is known as to the full assessment they ought to bear at the present day. Therefore, to ascertain that, a revenue survey has to be made, generally on the block system; and for this, local boards have to pay in every case where the survey has been made at their request. In some cases the local board is asked to contribute only a share of the expense where the survey is also being made for some other purpose.

The Hon'ble Mr. H. M. Winterbotham:—There are one or two points on which I may offer a few remarks which I trust may not be entirely thrown away. With regard to the Hon'ble Mr. Perraju Pantulu's opinion that the Government ought to take measures to increase the facilities for herding cattle in the deltas, I should like to ask him whether he has consulted the ryots themselves as to whether it would meet their views—that while the paddy crops and crops in general are growing, the cattle should be kept in the delta. I think he will find that, as in Tanjore, the ryots will all say that, although it is a great inconvenience to be deprived of their cattle, yet it is absolutely necessary for the safety of the crops that they should be sent to a distance. You will find even now in parts of Tanjore that half wild cattle roaming about during the time the crops are growing do an enormous amount of injury, and the ryots in self-defence sometimes shoot or maim these cattle and then are prosecuted before the sub-magistrate and get punished for mischief and sent to jail. Looking at the matter from another point of view, it has to be remembered that irrigated or irrigable land will yield a paddy crop worth fifty or seventy-five rupees per acre, which, when turned into rice, will feed a whole family of human beings, and after that there remains straw produced from the acre of land which will feed three or four head of cattle a year, or at any rate for the whole of the cultivating season. To convert land so valuable as this, and yielding such a large amount of food for human beings and cattle, into cattle-stands where hungry cattle with disposition to trespass will be tied up in the day time and let loose in the night to feed on the neighbouring crops, the Honourable Member will find, if he enquires, is not a measure which will be regarded by the ryots at large with approbation. There is one more point on which I will detain the Council and that is to ask the Hon'ble Mr. Ratnasabhapati Pillai not to form his opinion as to the severity of a new assessment from the percentage of increase that may result from it. I do not know how to illustrate that very clearly. Supposing a person with an income of Rs. 400 a year is exempt this year from income-tax and next year on an income of Rs. 500 he has to pay ten rupees as income-tax, what is the percentage of enhancement? It is infinitely large; but it does not follow that the payment of ten rupees is a crushing burden. In the same way in Malabar, where a large portion of the district has entirely escaped assessment for the last hundred years, in any instance where an householder, who has a compound stocked with fruit trees, has hitherto escaped assessment, if you now assess an acre of that compound at one rupee, the percentage increase is infinitely large. Or if he paid two annas before and now pays one rupee the increase is eight-hundred per cent. which the Hon'ble Mr. Ratnasabhapati Pillai will say is intolerable; but it does not follow that the payment of one rupee causes any inconvenience. If you will examine the Government orders on the settlement of Malabar, you will find that the rates on wet, dry and garden lands are most moderate; that a large percentage increase is absolutely unavoidable and that it should not, by itself, be taken to indicate any hardship on the people. There are many other points on which I might comment, but I really do not think it is necessary to do so.

The Hon'ble Mr. J. Thomson:—Your Excellency, as no one has anything further to say I will endeavour to mention the few things that remain open to remark. In the first instance, I have to offer thanks for the chorus of jubilation with which the financial statement has been received and to say that I should feel very glad indeed if I had any hand in bringing it about or if I could hope in the future to continue to have the same excellent conditions as we have been able to start with on the present occasion. But the fact is we have nothing to do with it unfortunately, and we can only trust that the future will continue to be as prosperous as the present. Passing along the list of members who had anything to say upon the subject under discussion I will refer first to the Hon'ble Mr. Yorke. He says that improved roads are wanted

rather than education. With regard to that, as has been already said, both roads and education are very reasonable things to work for, to hope for and to pray for. I should like the one as well as the other. But with regard to the provision made for education, viz., eight lakhs, we are under the distinct orders of the Government of India that this sum should be devoted to education and should not be set aside for anything else. He had also something to say as regards salt and excise and complained of the antiquated regulations governing the one and the other. On that particular point, I would say that both in the Board of Revenue and in Government, I have endeavoured to have the points—which, I confess, are subject to complaint—altered and I will also endeavour to do so in the future, and I hope that the Government of India will, in course of time, be able to remove the difficulty under which the producers of salt and the producers of strong drink in the Madras presidency labour at the present time. With regard to the Hon'ble Mr. Perraju Pantulu's observations, most of them, I find, have been answered by the Hon'ble Mr. Atkinson, and apparently nothing has been left unanswered except the observation that he made that more money is spent on agriculture in European countries than in India. I had some knowledge of agriculture in my early days; and I regret to say that, so far as my own knowledge goes, unless a farmer is prepared to spend his own money, the State is not prepared to give him much assistance. This was, however, forty years ago, and perhaps by this time things have altered and I cannot, therefore, answer that point satisfactorily. The Honourable Member also said that the Government should wipe out the debts of ryots; and with regard to this it is hardly necessary for me to say anything in reply. He will see that it is perfectly impossible for the Government to wipe out the debts of ryots. There is no reason why it should wipe out the debts of ryots any more than it should wipe out my debts or the debts of anybody else. With regard to education, the Hon'ble Mr. Ratnasabhapati Pillai had something to say and the Hon'ble the Reverend Dr. Miller had also something to say. With regard to the provision for an inspector for European schools who, by the way, is also to be the inspector of training schools, and the provision for the deputy director of education for the purpose of assisting the Director of Public Instruction—with regard to the one point as well as the other—we have simply followed the instructions that were sent down to us from the Government of India. The Government of India have said that the results of the conference would involve increased work and responsibility on the various Directors of Public Instruction in future and this will in the larger provinces involve a devolution of part of their current duties to subordinate educational officers and will necessitate additional help being given to the Directors, in the form of well qualified personal assistants, who should belong to the graded Indian Educational Service. After that expression of opinion from the Government of India, there was nothing left for us except to make provision for the appointment. With regard to the inspector of training and European schools, the Government of India have said that the charge of European education should be placed under a special inspector who should have no other duty. This system is in force in Bengal and the Government of India consider that the whole time of an inspector would be fully occupied in the inspection of European schools. If that be so, it does not rest with us to take any other line than that taken in the budget provision. The Hon'ble Mr. Srinivasa Rao had certain observations to make on the subject of the separation of the judicial from the executive branches of the service, and he observes that it has proved a success wherever it had been carried out. Here we have gone so far in that particular direction as to have a special class of stationary sub-magistrates. With regard to the general question, the Madras Government has reported on it to the Government of India, and I am not aware whether any particular orders have been received either from the Government of India or the Secretary of State. There was a question as to the large income derived from "Stamps" being disproportionate to the expenditure. On that particular point, I find there is a reference made by Sir Henry Bliss in 1895. He said: "It is perfectly impossible to go into a thing of that kind off-hand, but I may tell you that I, having had some experience in figures, doubt whether there is any profit at all. The truth of the matter is that people are too apt to look merely at the amount raised by the levy of court-fee stamps and to forget the amount spent under the head of Law. They leave out of account altogether the fact that the heading 'Courts of Law' on the expenditure side of the budget does not represent the whole of the expenditure incurred." In the current year Sir Edward Law in the Supreme Council said: "We must consider India as a whole in the question of the administration of justice, as in

all others. It is, moreover, possible that my honourable friend has an exaggerated idea of the amount of profits derived from justice. The following are the most recent figures showing the situation: Receipts, Rs. 3,97,84,000; Expenditure, Rupees 3,23,63,000. I must point out that the courts are only a portion of the machinery necessary for the due administration of justice. I think that stationery, rent (or interest representing rent) of court-houses, and a portion of the cost of jails and police might fairly be added to the above figure for expenditure, which I may mention includes nothing for the pensions of retired judges and officials of the courts." These are the opinions of the Finance Minister in dealing with that particular branch of income and expenditure. A remark has been made by the Hon'ble Mr. Jumbulingam Mudaliyar—in which I am certainly inclined to agree—in offering his congratulations on the liberality of the Government of India, that there is a certain disadvantage in having grants given to be expended within the year. He thinks that it leads perhaps to too much of unwise expenditure for want of due consideration. I think it might have been well, if the Government of India had allowed a longer period than one year to expend the large grant placed at our disposal. But the order is so, and we must endeavour to carry it out to the best of our ability. The same honourable gentleman has observed with reference to the Ceded districts that he does not know whether the state of the season was what was described in the financial statement. With regard to that, all I can say is that the financial statement was drawn up on the information of the Board of Revenue, who are responsible in the first instance for the estimate of receipts; and as he heard to-day in answer to some question, the amounts that ought to be remitted or foregone in the Ceded districts are pretty considerable. I presume, therefore, that in the general total of things what appears in the statement is more or less correct. He has also said that the estimate under "Registration," which stands at 7·40 in the revised estimate for 1901–1902, is fixed at 7·40 for the budget estimate of 1902–1903, this being largely in advance of the budget estimate for 1901–1902 of 6·50. With regard to that, I have only to say that 7·40 is not the normal figure, but our custom is to continue the revised figure of the previous year for the current year unless there are special reasons for not doing so. I do not think there is anything particularly wrong. We come to one remark of his concerning aluminium. As regards aluminium, I must say it has been a burning subject with Government, and I might as well now say something in full on the subject. Aluminium at the School of Arts is not to be regarded as part of the general scheme of technical and industrial education which the Government of India is desirous of seeing developed. Schools of art are for the teaching and improvement of the arts and industries of the country: the industries are such as are capable of being practised in the locality and such as can be improved by instruction directed towards better forms and methods and by the use of superior tools and appliances. Thereby a better class of workman should be produced with enlarged skill and intelligence and the product of this skill and intelligence should have an extended use and afford more pleasure or satisfaction. The aluminium work at the School of Arts took its rise, I believe, in the desire to make work in this metal an industry of the country, instead of having to depend on foreign countries for supplying the demand, which was growing and real, for articles of the sort. There was also some idea that with the aid of the large natural forces that could be made available it might be possible to produce the raw metal itself, but this idea has been given up and virtually the aluminium work in Mr. Chatterton's hands has become a commercial enterprise for the introduction and expansion of the use of aluminium ware among the people of India. It is coincidently a school of instruction in all the forms of aluminium work. If the people of the country are to take to this metal in preference to the silver, copper, brass, bronze or bell metal that hitherto has satisfied them, there is no reason why they should not do so. And it is clearly most desirable that work in the metal should be retained in this country and should not pass away to other countries as has happened, for instance, in the weaving and other industries, and as was likely to happen if the production of the ware in India was not vigorously and wisely taken in hand. The charge made against Government now is that it unnecessarily continues its work and production, although private parties and companies are ready and willing to take its place and fulfil all the public ends which Government working serves. To this several answers are made. It is denied that private enterprise is as yet either efficient or sufficient to take the place of Government. The trade must be extended as widely and largely as possible, so as to get a firm hold of the market, and no private

persons or companies now in existence are equal to this. Also, at the present time especially, when, so to speak, aluminium is on its trial as a metal for common use, it is most necessary that its quality should be of the best procurable. In this respect, Government, through Mr. Chatterton, is exercising a most beneficial influence. Further, it is possible that for Government needs and purposes solely, a manufactory may be wanted for the future, and, as far as we can see, the factory in the School of Arts has not progressed beyond such possible eventual purpose. Then again it is claimed that as matter of fact there is no competition between the School of Arts and others exercising this trade in Madras; so far is this from being the case that it is understood that Mr. Chatterton is working with, assisting, and putting work in the way of the minor manufacturers. I have it on the best authority that in Mr. Norton's own workshop a disclaimer was made of any objection to the existence of the Government workshop, as things are at present conducted. It does seem clear enough that the action Government is pursuing now is the very best and wisest it can pursue until the industry is fully and finally settled so as to hold its own against foreign competition and avoid possible debasement in the hands of those who are not able financially, or from the want of scientific knowledge, to maintain the quality of the manufacture at a high level. The work which is being done and the objections taken to this Government's action are well within the knowledge of the Government of India. The industrial committee that recently visited Madras have had all the matter fully under consideration and will no doubt deal with it in making their report. The experiment is, we believe, unique in India and is deserving of the fullest consideration before final action. These are the reasons why this Government has determined to provide for the prosecution of the work in the current year while not spending money upon it either extravagantly or more than can be recovered by the revenue it will yield. For private manufacturers the waiting is only a matter of time, and they will do well to remember that Government is pioneering an industry from which they are likely to reap much advantage. I do not think, Sir, there is any other point that I ought to say a word upon, except perhaps the allocation of the total provision for education during the year, which is fixed at 27·22, as against 18·38 in the budget estimate of past year. The allotment for grant-in-aid has been entered as 11·94 lakhs as against 5·31 in the past year. That is to say, there is an increase under grants-in-aid of 6·63, which ought to provide for a great deal of the work to which the Hon'ble Mr. Srinivasa Rao and others have properly alluded, as the work towards which any funds available may be devoted.

His Excellency the PRESIDENT, in bringing the debate to a close, said:—Honourable Gentlemen—It is now my duty to close this discussion, but it would not be fitting that I should do so on this occasion without making in my capacity of head of the Government a due acknowledgment of the generous treatment which we have received at the hands of the Government of India. We are in the highly satisfactory position of having not only as much as we asked for but even more, and the sums which have been placed at our disposal are as great as we can usefully apply during the ensuing year. The thanks of my colleagues and myself are due and are gratefully tendered for the liberal treatment which has been meted out to us, and by no means the least part of our gratification is the hope which has thus been engendered that the next provincial settlement will be framed in a manner more satisfactory to ourselves and to the tax-payers of this presidency than the settlement which is still current. The present provincial settlement stood due for revision on the 1st of this month; but, as you are aware, it has been postponed for at least one year. I consider this postponement to be an unmixed advantage; for, if the era of financial prosperity which has just set in is maintained in accordance with the anticipations declared in authoritative quarters, the Government of India will, without doubt, be in a position to accord to us more favourable treatment than they could prudently have accorded at the beginning of this year. That they are inclined to recognize the expansion of our just requirements and the inadequacy of our present resources is, I think, evident from the manner in which they have dealt with us in our present budget, and we have the assurance given by Sir Edward Law in the financial statement presented to the Supreme Legislative Council that the Government of India are sincerely anxious to remove all just cause of complaint and, as far as resources may permit, to provide for a reasonable and healthy growth of provincial requirements. This is all that we ask for or expect, and an earnest of this intention on the part of the Government of India has certainly been given to us in the present budget. We

should be both ungracious and ungrateful if we did not accept this as an assurance that our past representations have received attention, and will be given due weight in the future. Recognizing this as I do, I refrain at the present time from any further complaint against the existing settlement, and I feel no little confidence that the time is near at hand when we shall be made independent of eleemosynary doles and grants, and, as my honourable colleague has so aptly put it, placed in our proper position of a son instead of being kept in that of a poor relation. That we have been liberally treated is no doubt principally due to the fact that the Government of India had the means at their disposal, but I think, though I do not speak from any certain knowledge, that the Government of India would be willing to admit that they have been favourably predisposed towards us on account of the reasonable attitude which we ourselves have maintained. We have happily not been obliged to make the pleas of backwardness or abnormal distress, but in framing our budget we observed a strict adherence to the rules which govern the preparation of budget estimates, we made no unreasonable or ill-considered demands, we preserved the modest demeanour which became our position of dependence and poverty, and we stated our needs in temperate and carefully measured language. Whether this attitude affected the decisions of the Government of India or not, I think that it is right that you should know the line which we have taken up, in order that if you approve of it on the results, you may guide and influence public opinion to support us on the same lines. While we feel that more is due to us of right rather than of generosity, we fully recognize and admit our share in those Imperial liabilities from the discharge of which we reap, as a province, a proportionate advantage and we should be the last to maintain that our own prosperity could be in any way dissociated from the prosperity of India as a whole. It is with some diffidence that I have trenched on a subject which is, strictly speaking, outside the limits to which the rules confine this discussion. In doing so, however, I have followed the precedents of this chair and I have done so in order to convince Honourable Members that my colleagues and I are anxious to take them into our confidence and ask them to share our hopes and anxieties and to sympathize with us in our responsibilities. Our discussion is limited by the rules to those branches of revenue and expenditure which are under the control of the local Government, and within those limits everything has been said by way of criticism and reply which need have been said and could have been said. It is, therefore, unnecessary for me to prolong the discussion. The Hon'ble Mr. Yorke seemed to be hurt because in accordance with the rules I was obliged to interrupt him in his criticism of Imperial finance, and complained that this was his only opportunity of making such a criticism. I think that if he reflects he will see that a discussion on Imperial finance in a Provincial Council is obviously out of place, futile and presumptuous, and that the press and the right of free speech in public afford him the opportunities he desires. The prohibition which he resents does not in any way detract from the utility of debates in this Council, which are only intended for provincial affairs. I do not think that we have any of us wasted our time, or that, as has sometimes been remarked at this table, the budget debate is an institution which serves no useful purpose. On the contrary, I think that it has been and is, and I trust will continue to be, useful and profitable to the Government, the non-official members and the public at large. I hope that Honourable Members share this view, or at any rate that they will believe me when I say that what has sometimes appeared to them to be a somewhat purposeless debate is regarded by the Government as criticism valuable for indicating what other sides there may be to the questions on which they have to decide. We start the new financial year with brighter prospects than we have enjoyed for some time past. Famine and plague are at present causing us no more than the ordinary anxiety which is ever present in the minds of those responsible for the administration of India. We are at last in a position to initiate some of the reforms which we have long contemplated and desired and the realization of others seems to be distinctly nearer at hand. The work which lies before Government is that of peaceful and progressive administration. The year of the coronation of His Majesty the King-Emperor opens by the mercy of Providence with bright augury for the reign on which our loyal hopes and trustful anticipations are fixed; I trust that when the next budget debate comes round no cloud will have darkened the horizon and menaced this fair prospect. I now declare this discussion closed and the meeting dissolved.

A. T. PRINGLE,
Asst. Secretary to Government.

ANNEXURE.

MEMORANDUM TO ACCOMPANY THE FINANCIAL STATEMENT OF THE GOVERNMENT OF MADRAS FOR THE YEAR 1902–1903.

The transactions with which this statement deals are those which, under the Provincial contract, have been placed under the control of this Government. Appendix A exhibits the actuals under Provincial funds for 1900–1901, the budget and revised estimates for 1901–1902 and the budget estimates for 1902–1903.

The following paragraphs deal with the figures of these three years. Amounts are expressed throughout this statement in lakhs of rupees.

I.—Accounts, 1900-1901.

A complete review of the transactions of the year has already been published in the Accountant-General's appropriation report recorded in the proceedings of Government, No. 215, Financial, dated the 8th March 1902, which were placed on the Editors' table.

II.—Revised Estimate, 1901-1902.

The year 1901–1902 opened with a balance of 2·46 against ·89 anticipated at the time the budget was framed. The receipts, which were originally placed at 363·67, are expected to be better by 17·28, while it is anticipated that the expenditure, which stood in the budget at 344·56, will show a saving of 6·37. The surplus for the year, which was expected to stand at 19·11, will thus be raised to 42·76 and the closing balance of the year, which is the opening balance of the budget, will be 45·22.

Of the increase in the receipts, 10 is due to a special contribution from Imperial funds for expenditure on public works to be executed in 1902–1903 and on other objects which do not involve recurring charges. The provision for this expenditure is included on the expenditure side of the budget for 1902–1903.

III.—Budget Estimate, 1902-1903.

The year 1902–1903 will open with a balance ot 45·22 lakhs. The receipts are estimated at 353·73 and the charges at 373·51, leaving a closing balance of 25·44 as shown in the following statement :—

—	Revised, 1901–1902.	Budget, 1902–1903.
Opening balance	2·46	45·22
Revenue	380·95	353·73
Expenditure	338·19	373·51
Deficit (—) or Surplus (+)	+ 42·76	— 19·78
Closing balance	45·22	25·44

In explanation of the variations in the foregoing figures it should be noted that, as explained in the preceding paragraph, the expenditure from the special assignment of 10 lakhs credited to Provincial in 1901–1902 appears on the expenditure side of the budget of 1902–1903. Both receipts and expenditure in 1902–1903 are swelled by further special grants from the Government of India which will be explained later. The total of the special grants is less than in 1901–1902, when assignments were specially made to avoid a *minus* closing balance in the estimate and to restore the closing balance of 20 lakhs.

In the ordinary course the existing Provincial contract settlement should expire on the 31st March 1902. The Government of India has, however, decided to continue the existing settlement during 1902–1903.

REFUNDS AND DRAWBACKS *—*1.*

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts. 1900–1901.	Accounts. 1899–1900.	Accounts. 1898–99.
Provincial share.						
Land Revenue (one-fourth) ..	·25	·30	·29	·19	·25	·31
Stamps (three-fourths)	·80	·70	·75	·78	·74	·83
Excise (one-fourth)	·05	·15	·04	·04	·05	·10
Assessed taxes (one-half)	·09	·10	·10	·07	·10	·10
Forest (one-half)	·06	·08	·04	·06	·06	·06
Registration (one-half)	·02	·02	·02	.01	·02	·02
Total ..	1·27	1·35	1·24	1·15	1·22	1·42

* Drawbacks occur only under Customs and are wholly Imperial.

These charges vary considerably from year to year and are not liable to any departmental control.

I.—LAND REVENUE—3.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts. 1900–1901.	Accounts. 1899–1900.	Accounts. 1898–99.
Shared.						
Revenue—						
Ordinary revenue	564 01	563·76	561·39	554·56	522·83	553·16
Sale of Government estates ..	..	·05	..	..	·03	..
Sale-proceeds of waste lands and redemption of land-tax ..	3·12	·87	·02	1·16	·54	·13
Rents, &c., of fisheries	..	..	..	..	..	..
Miscellaneous	·45	·92	·47	1·01	·88	·78
Total ..	567·58	565·60	561·88	556·73	524·28	554·07
Provincial share (one-fourth)..	141·90	141·40	140·47	139·18	131·07	138·52
Adjustments	33·81	61·27	50·74	16·29	19·81	35·52
Total ..	175·71	202·67	191·21	155·47	150·88	174·04
Provincial.						
Expenditure—						
Charges of District Administration.	43·13	41·29	41·74	42·04	41·19	39·61
Survey and Settlement	8·59	7·36	7·96	6·95	4·24	4·23
Land Records and Agriculture ...	4·74	3·84	3·92	3·63	5·31	5·28
Inam Commissioner	·14	·06	·06	·08	·07	·05
Total ..	56·60	52·55	53·68	52·70	50·81	49·17

Revenue—Land Revenue—Proper.—The small increase under "Ordinary revenue" in the revised estimate for 1901–1902 is due mainly to a larger balance outstanding at the beginning of the year than was anticipated when the budget estimate was framed. The revised estimate takes into account the decrease in water-rate on dry lands and increase in season remissions due to the deficiency in the rains of the south-west monsoon. The receipts from the sale of waste lands under the Rushikulya and Periyár projects hitherto exhibited under the head "Ordinary revenue" are now shown under the head "Sale-proceeds of waste lands and redemption of land-tax."

The budget estimate for 1902–1903 counts upon a smaller outstanding balance at the beginning of the year, places the season remissions at a lower figure and anticipates a larger percentage of collections. The increase under the head "Sale-proceeds of waste lands and redemption of land-tax" is due to the large realization expected from the sale of tank-bed lands in the Madura district.

Adjustments.—The large increase in the revised estimate is mainly due to a special grant of 10 lakhs from the Government of India for expenditure on public works and other objects which do not involve recurring charges. This special grant is intended for expenditure in 1902–1903 and has been distributed in the estimates for that year under the following heads: 22. Education ·84; 43. Minor Works and Navigation, 5·56; 45. Civil Works, 3·60.

Owing to the decision to treat the capital expenditure incurred from Provincial funds on the construction of the Tanjore district board railway as a loan to the board so that it may become the entire owner of the railway, the share of the net receipts from the line hitherto credited to Provincial under the head Contributions has, with effect from the 1st April 1901, been treated as a contribution from Imperial to Provincial. This fact accounts for the remainder of the increase in the revised estimate under Adjustments.

The budget estimate for 1902–1903 includes a recurring grant of 8 lakhs from the Government of India to be utilized for increased expenditure on education, a further assignment of 3·50 which will be devoted mainly to recurring items and a special grant of 5·50 which it is intended to expend on feeder roads and communications and on public works generally. The outlay from this 17 lakhs appears on the expenditure side of the estimates.

Expenditure.—The budget estimate for 1902–1903 under "Charges of District Administration" anticipates an increase in the strength of Assistant Collectors, and provides for the appointment of Deputy Collectors for the enfranchisement of village service inams in proprietary estates under Madras Act II of 1894, and for the entertainment of a temporary establishment under the Hon'ble Mr. Nicholson in connection with his inquiries on the subject of agricultural banks.

Provisions are included under "Survey and Settlement" for a fifth survey party; for the survey of hill villages in the Coimbatore, North Arcot and South Arcot districts; for the strengthening of subordinate survey establishments, and for the compilation of topographical maps of municipal towns.

Under "Land Records and Agriculture" a lump provision of ·75 has been made for the staff to be employed on the maintenance of land records.

III.—Salt—5.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts.		
				1900–1901.	1899–1900.	1898–99.
Revenue	1·02	1·08	·86	1·06	1·00	·85
Expenditure	4·24	3·99	4·35	3·99	4·07	3·96

Revenue.—The revised estimate for 1901–1902 and the budget estimate for 1902–1903 have been based on available actuals. The budget estimate for 1902–1903 shows an increase mainly under "Fees and cesses" which vary with the expenditure on works incurred by Government on behalf of the licensees in excise factories and with the sales of excise salt, by a cess on which the expenditure is recouped.

Expenditure.—The saving in the budget estimate for 1901–1902 shown in the revised estimate has been caused by the posting of Assistant Inspectors instead of Inspectors to circle charges and by the non-employment of the full sanctioned strength of temporary establishments. Savings also occur under "Rewards", "Petty works of construction", "Cost of working shops under amani" and "Excise licensees' works."

The budget estimate for 1902–1903 provides additional staff for the opium warehouse at Cocanada, for the extension of the Naupada and Ganjám factories, for the preventive ranges of the Bellary district, for the patrol boat establishments on the West Coast and for the collection of abkári revenue in the Gunupur agency in Vizagapatam. Allotments are also included for increasing the pay of peons in certain circles, for the resurvey of salt factories, for the renewal of the stills and coils in use in the Government distilleries on the West coast, and for the possible concentration of manufacture of spirits at Chávakkát.

IV. Stamps—6.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts.		
				1900–1901.	1899–1900.	1898–99.
Revenue	65·63	65·63	64·62	64·24	62·56	62·00
Expenditure	2·49	2·58	2·34	2·42	2·23	2·42

Revenue.—The increase occurs principally under sales of general stamps.

Expenditure.—The variations in the revised estimate for 1901–1902 and the budget estimate for 1902–1903 occur in the item of discount on sale of general stamps, the expenditure under which is based on the estimated receipts.

V.—Excise—7.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts.		
				1900–1901.	1899–1900.	1898–99.
Revenue	36·00	36·00	34·25	33·97	33·54	34·19
Expenditure	2·54	2·53	2·56	2·52	2·48	2·48

Revenue.—The results of the last sales of toddy shops for the lease year commencing with the 1st October 1901 have proved more favourable than was anticipated. In 1902–1903 the system of separate sale of shops will be in force in all tree-tax areas throughout the year and will be further extended in the four northern districts. Under the new system of contract supply of country spirits an increase in the rentals for the arrack shops is also anticipated.

Both the revised and the budget estimates include, in addition to these ordinary realizations, a new source of revenue under the head "Gain on sale-proceeds of opium" which has been opened in the estimates and accounts in consequence of the change of system recently introduced by which Government has become the sole importer of opium in this Presidency.

Expenditure.—With the exception of charges relating to "Salt purchase and freight" which are wholly Imperial and "Excise Licensees' works" which are wholly Provincial, two-fifths of the entire charges of the combined Salt, Abkári and Customs department, after deducting 5 *per cent.* chargeable to 9. CUSTOMS, are debited to this head. The explanations given under 5. SALT therefore apply here also.

VII.—CUSTOMS—9.

—	Budget estimate, 1902-1903.	Revised estimate, 1901-1902.	Budget estimate, 1901-1902.	Accounts.		
				1900-1901.	1899-1900.	1898-99.
Revenue	·85	·88	·80	·92	·71	·75
Expenditure	2·80	2·79	2·81	2·74	2·47	2·42

Expenditure.—As explained last year, the charges on account of outports and land customs which were formerly exhibited entirely under this head were, with effect from the 1st April 1900, merged with the cost of the combined Salt, Abkári and Customs department, the expenditure on account of the Collector of Sea Customs at Madras and his establishment being charged direct to CUSTOMS.

VIII.—ASSESSED TAXES—10.

—	Budget estimate, 1902-1903.	Revised estimate, 1901-1902.	Budget estimate, 1901-1902.	Accounts.		
				1900-1901.	1899-1900.	1898-99.
Revenue (Income-tax)	14·12	14·12	13·50	13·79	13·70	12·99
Expenditure (Collection of Income-tax)	·16	·16	·16	·15	·15	·14

Revenue.—The income-tax realizations in the Civil and Military station of Bangalore which have been transferred from Provincial to Imperial with effect from the 1st April 1901 disappear from the income-tax revenue for the years 1901-1902 and 1902-1903.

IX.—FOREST—11.

—	Budget estimate, 1902-1903.	Revised estimate, 1901-1902.	Budget estimate, 1901-1902.	Accounts.		
				1900-1901.	1899-1900.	1898-99.
Revenue	12·50	12·75	12·00	11·70	11·51	10·55
Expenditure	9·62	8·60	8·88	8·58	8·27	7·97

Revenue.—The excess of the revised over the budget estimate for 1901-1902 occurs chiefly under "Timber and other produce removed from the forests by consumers or purchasers". The collection during 1901-1902 of the outstanding revenue of the previous year arising from the sale of railway sleepers and sandal-wood has contributed to swell the receipts. Grazing fees have also increased, even though the forests of Kurnool and Cuddapah were opened for free grazing owing to drought.

The budget estimate for 1902–1903 provides for a normal increase of revenue only. Enhanced receipts are expected to result from the supply of a larger quantity of engine fuel to railway companies, the extraction of larger quantities of sandalwood, and elephant-catching operations in North Malabar.

Expenditure.—Increased expenditure has been incurred in consequence of the creation of two new appointments during 1901–1902 in the first grade of Extra Assistant Conservators under the scheme for the transfer of appointments from the Imperial to the Provincial forest service. Additional expenditure is also anticipated on account of the deputation of a large number of students to the Dehra Dun forest school. But these increases as well as that resulting from the higher rates of pay sanctioned to the Conservators of Forests will, it is anticipated, be more than counterbalanced by savings arising from the transfer of officers to foreign service.

The budget estimate for 1902–1903 provides for the increased establishments referred to above, and for the grant of increments to clerical establishments in the Conservators' and District Forest offices. Larger outlay has been provided for chiefly on account of (i) collection by Government agency of firewood, charcoal and sandalwood owing to the increased demand for these articles, (ii) elephant-catching operations, and (iii) communications and buildings.

X.—Registration—12.

—	Budget estimate, 1902-1903.	Revised estimate, 1901-1902.	Budget estimate, 1901-1902.	Accounts.		
				1900-1901.	1899-1900.	1898-99.
Revenue	7·40	7·40	6·50	7·24	6·34	6·46
Expenditure	4·45	4·38	4·42	4·32	4·22	4·21

Revenue.—An abnormal increase both in registrations and collections occurred during 1900–1901 as a consequence of the failure of rains in several districts, of the rise in prices, of the great demand for food-grains in Western and Northern India, of the revival of the ground-nut trade in the South Arcot district, of the cessation of the anti-Shanar riots in Madura and Tinnevelly, and of the abatement of plague in the Deccan and elsewhere. The budget estimate for 1901–1902 provided for a normal year, but notwithstanding the marked reduction in the rate of fees levied for searches in connection with applications for Government loans under the Land Improvement and Agriculturists' Loans Acts, the level of the realizations of the previous year continued to be maintained.

Expenditure.—The budget estimate for 1902–1903 includes provision for new sub-registry offices and for additional establishments in existing offices.

XII.—Interest—13.

—	Budget estimate, 1902-1903.	Revised estimate, 1901-1902.	Budget estimate, 1901-1902.	Accounts.		
				1900-1901.	1899-1900.	1898-99.
Revenue	2·25	2·29	2·37	2·35	2·40	2·59
Expenditure	1·82	1·79	1·91	1·80	1·87	2·04

The interest at 3½ *per cent.* which the Local Government has to pay to Imperial funds is calculated on the mean outstanding balance of the Provincial loans and advance account at the beginning and at the end of each year. Appendix C contains the details of the amounts advanced under the several classes of loans; while detailed account No. 13-A in the Civil Estimates furnishes complete information regarding the rates of interest charged.

POST OFFICE—15.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts. 1900–1901.	1899–1900.	1898–99.
Expenditure	1·07	1·07	1·07	1·05	1·01	1·04

This head calls for no remarks.

GENERAL ADMINISTRATION—18.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts. 1900–1901.	1899–1900.	1898–99.
Expenditure	10·80	10·24	10·00	10·07	9·82	9·97

The excess of the revised over the budget estimate for 1901–1902 has been caused by the grant of privilege leave to the Chief Secretary to Government, the purchase of new instruments for H. E. the Governor's band and the deputation of an officer on special duty in connection with the preparation of the Madras volume in the Imperial series of monumental inscriptions. The charges under this major head have also been swelled by the extra amount which has been incorrectly debited to it on account of the deputation on census duty of the officer holding the post of permanent Under Secretary in the Revenue department. This debit will, however, be set right before the accounts are finally closed. These excesses will be partly counterbalanced by savings in the provision for the allowance of the Madras Member of the Legislative Council of India, which will probably be drawn fully in Calcutta; the abolition of the post of the special plague assistant in the Local and Municipal Secretariat; and short expenditure under travelling expenses of His Excellency the Governor's staff and in the travelling allowance of the non-official members of the Legislative Council.

The budget estimate for 1902–1903 provides for an officer on special duty in connection with the subject of the redistribution of divisional charges in the Presidency. Rs. 60,000 is as yet undistributed.

XVI-A.—LAW AND JUSTICE—COURTS OF LAW—19-A.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts. 1900–1901.	1899–1900.	1898–99.
Revenue	7·68	7·57	7·57	7·31	7·31	7·99
Expenditure	49·62	47·75	47·77	47·92	46·90	46·13

Revenue.—The budget estimate for 1902–1903 anticipates a larger revenue from the sale-proceeds of unclaimed and escheated property, from recoveries on account of pauper suits and from "miscellaneous fees and fines", the figures adopted in each case being based on known actuals.

Expenditure.—The budget estimate for 1902–1903 provides for the reorganization of process-service establishments and for the appointment of a Stationary Sub-Magistrate in Kurnool. The amount transferred to this head from the major head 3, LAND REVENUE is larger in consequence of the higher estimate under that head.

XVI-B.—Law and Justice—Jails—19-B.

—	Budget estimate, 1902-1903.	Revised estimate, 1901-1902.	Budget estimate, 1901-1902.	Accounts.		
				1900-1901.	1899-1900.	1898-99.
Revenue	5·25	5·50	5·00	6·21	4·43	4·21
Expenditure	13·01	13·98	12·32	13·54	10·92	11·88

Revenue.—During 1900–1901 the receipts from jail manufactures were exceptionally high, partly in consequence of the unusually large supplies to the Military department in connection with the operations in South Africa and China. The contracts secured by the Jail department in that year were in force during 1901–1902.

The budget estimate for 1902–1903 has been based on the revised estimate.

Expenditure.—The increase in the revised estimate over the budget estimate for 1901–1902 occurs mainly under "dietary charges" and, to a smaller extent, under "charges for moving prisoners." The excess under the former head has been caused by a large jail population and by the high prices of food-grains, while that under the latter head is accounted for by larger movements in order to relieve overcrowding.

The budget estimate for 1902–1903 has been based on the revised estimate, but it is hoped that the prison population and the cost of dieting prisoners will fall with the improvement in the season. Larger outlay has been provided for under "Jail Manufactures" which, as in 1901–1902, will be more than covered by receipts.

XVII.—Police—20.

—	Budget estimate, 1902-1903.	Revised estimate, 1901-1902.	Budget estimate, 1901-1902.	Accounts.		
				1900-1901.	1899-1900.	1898-99.
Revenue	5·51	5·74	5·84	5·52	5·02	4·50
Expenditure	49·57	47·68	47·95	46·84	47·26	45·48

Revenue.—The improvement in pound fund receipts which was anticipated when the budget estimate for 1901–1902 was framed has not been fully realized, and the extension of the Steam-boilers and Prime-movers Act to the mufassal for which the estimates provided has not taken place.

The budget estimate for 1902–1903 anticipates smaller recoveries on account of the special police forces in the Tinnevelly and Madura districts. Credit is taken for a sum of ·11 recoverable from the Madras Harbour Trust board on account of increased Marine police, a corresponding amount having been provided under expenditure.

Expenditure.—Notwithstanding the refund of excess recoveries effected in the previous year on account of the special police force in the Tinnevelly district, the budget allotment for 1901–1902 is not expected to be fully utilized owing to decreased expenditure on cattle pounds following upon the drop in the receipts, to the absence on leave of a larger number of police officers and to the non-entertainment of the additional establishment for the proposed extension of the Steam-boilers and Prime-movers Act to the mufassal.

The budget estimate for 1902–1903 contains allotments for the reorganization of the police force of the Presidency town, for the entertainment of additional punitive police at Kamudi, for the conversion of the police training school at Vellore, which

is now held for six months only, into a permanent institution, and for the entertainment of additional railway police for new lines. It also provides for a larger outlay on clothing, for a freer use of the telegraph in connection with the capture of criminals, for increased police force in the Bellary and Salem districts on account of the spread of plague and for more extended operations in the construction of station houses and police huts.

XIX.—Education—22.

—	Budget estimate, 1902-1903.	Revised estimate, 1901-1902.	Budget estimate, 1901-1902.	Accounts.		
				1900-1901.	1899-1900.	1898-99.
Revenue	1·82	1·97	1·85	1·89	1·62	1·81
Expenditure	27·22	18·19	18·38	17·68	17·88	18·05

Revenue.—The budget estimate for 1901-1902 will, it is expected, be exceeded in the revised chiefly in the item of receipts from special schools. A large portion of the realizations from sales at the School of Arts which have heretofore been exhibited under this head will, with effect from the 1st April 1902, be shown under the head 26. Scientific and other minor departments.

Expenditure.--The decrease in the revised estimate, as compared with the budget estimate for 1901-1902, is due chiefly to savings in the salaries of inspecting officers, to the absence on leave out of India of the principal and a professor of the Presidency College, to the provisions for a professor of Civil Engineering and for a mechanical instructor in the Engineering College not being fully utilized, and to short expenditure on account of the registration of books and examinations for teachers' certificates.

Several reforms based on the resolutions of the Simla educational conference will be introduced into the presidency in 1902-1903, the Government of India having rendered the increased expenditure possible by consenting to make a recurring grant of 8 lakhs to Provincial revenues. The interests of primary education will be promoted by the establishment of a number of upper primary schools serving as model schools. An Inspector of Schools with the necessary establishment will be appointed for the efficient supervision of European and training schools. As the Madura, Tinnevelly, and West Coast divisions have proved to be too unwieldy to be managed by single officers, each of the districts composing these divisions will be placed under the separate charge of an Assistant Inspector. The agency of Sub-Assistants will be considerably strengthened and their prospects improved. The provincial educational service will be reorganized so as to make it more attractive, and in order to give the Director of Public Instruction more time for touring and for dealing with questions of administrative importance, he will be given the assistance of a deputy.

An additional sum of ·63, proposed to be provided for the payment of results and fixed grants to local fund schools and a sum of 2·50 intended as a subsidy to local boards in order to enable them to pay their grants in full, will ultimately be transferred to the head Contributions.

Provisions have been made for larger grants-in-aid with a view to the payment to aided institutions of the full amount of the results grants earned, or of increased fixed grants, as the case may be, and for the purpose of encouraging managers to provide good buildings for their schools. The budget estimate includes contributions towards the completion of the Victoria hostel and the erection of a new hostel in connection with the Madras Christian College from the special assignment of 10 lakhs made by the Government of India in the revised estimate for 1901-1902.

XX.—Medical—24.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts.		
				1900–1901.	1899–1900.	1898–99.
Revenue	1·19	1·15	1·11	1·22	1·11	1·15
Expenditure	15·17	13·01	13·64	13·44	15·14	16·26

Revenue.—The increases in the revised estimate for 1901–1902 and the budget estimate for 1902–1903, as compared with the budget estimate for 1901–1902, are due to larger admissions to the medical college and to the introduction of a revised method of apportioning the cost of the staff of reserve medical subordinates between Provincial, Local and Municipal funds.

Expenditure.—The decrease in the revised estimate for 1901–1902, as compared with the budget estimate, occurs mainly under "Sanitation and Vaccination" and "Medical Schools and College" and is due to the non-utilization of the provision for the establishment of a central vaccine institute; to the absence of the Sanitary Commissioner on furlough; and to acting vacancies in the staff of the medical college. On the other hand, the budget grant for plague expenditure will, it is expected, be exceeded in consequence of the spread of the epidemic in certain districts.

The budget estimate for 1902–1903 contemplates heavier expenditure on account of plague preventive measures and provides for the establishment of the central vaccine institute which it is expected will be started shortly.

An allotment has also been made for the introduction of the scheme for the improvement of the pay and position of civil hospital assistants.

The budget also provides for the establishment of new medical schools at Ráyapuram and at Vizagapatam. Owing to the large number of students of the hospital assistant class and to the insufficiency of space in the general hospital and in the medical college at Madras, difficulties have been experienced in imparting clinical instruction to these students at the hospital and in holding classes at the college, and at present they have to attend for clinical instruction at the hospital at Ráyapuram situated about three miles away from the college. The Government has accordingly decided to establish a new medical school at Ráyapuram; and in order to encourage more students from the Northern Circars to undergo training and to supply the much-felt need for subordinates whose vernacular is Telugu, it has also been resolved to establish an additional school at Vizagapatam.

XXI.—Scientific and other Minor Departments—26.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts.		
				1900–1901.	1899–1900.	1898–99.
Revenue	6·71	5·47	5·59	4·86	3·98	2·78
Expenditure	8·72	6·56	7·15	6·71	5·95	5·75

Revenue.—The receipts on account of the sale of aluminium ware manufactured at the School of Arts will, it is expected, be below the budget anticipation. On the other hand, the demand for quinine manufactured at Government factories is considerable and emigration to Natal and Mauritius, which recommenced during 1900–1901, has been active. Enhanced receipts from examination fees are also anticipated.

The budget estimate for 1902–1903 includes anticipated receipts from the weaving, carpentry and other industries in the School of Arts, the transactions connected with which have hitherto been exhibited under 22. Education. It is

anticipated that there will be a further increase in the demand for quinine and that the transactions in connection with the aluminium industry will have larger results. Emigration is, on the other hand, expected to resume more normal proportions.

Expenditure.—During 1901–1902 there has been short outlay under experimental cultivation; the expenditure on aluminium manufacture has been restricted; the allotment for the registration of road traffic and land trade has not been fully spent; no exhibitions or fairs were held during the year; and the grant for Veterinary hospitals has not been utilized.

The budget estimate for 1902–1903 includes provision for the revision of the Madras portion of the Imperial Gazetteer and for the prosecution of measures to investigate the sugarcane disease in Gódávari which is seriously affecting cultivation.

Increased allotments have been made for expenditure in connection with cinchona plantations, but it is expected that the enhanced outlay will be more than covered by increased receipts.

Provision has been made for expenditure on the weaving, carpentry and other industries in the School of Arts, transferred to this head from 22. Education. The major portion of the outlay on this account will, it is anticipated, be recovered by the sale of the articles manufactured.

The budget estimate includes an increased provision for transactions in connection with the aluminium industry and an allotment has been made for starting a Bacteriological institute.

XXII.—Superannuation, Retired and Compassionate Allowances—29.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts.		
				1900–1901.	1899–1900.	1898–99.
Revenue	·59	·65	·54	·54	·54	·53
Expenditure	17·98	17·70	17·60	17·39	17·13	15·90

Revenue.—The increase in the revised estimate for 1901–1902 has been caused chiefly by the realization from the Native States concerned of a share of the leave allowances of certain officers which were in the first instance paid wholly by Government.

Expenditure.—The expenditure under this head continues to grow with the expansion of the pension list.

XXIII.—Stationery and Printing—30.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts.		
				1900–1901.	1899–1900.	1898–99.
Revenue	·90	·87	·91	·88	·88	1·16
Expenditure	10·79	10·21	10·73	9·94	10·64	9·81

Revenue.—The decrease in the revised estimate for 1901–1902 occurs under sale-proceeds of stationery.

Expenditure.—It is not expected that the budget estimate for 1901–1902 will be fully utilized as the expenditure on packing and other charges and carriage of stationery in the Stationery office at the Presidency fell during the year. There has also been smaller outlay on materials and stock in Collectorate presses.

All charges for peons' clothing and liveries will, with effect from the 1st April 1902, be shown under this head instead of against the offices supplied as was partly the case heretofore.

XXV.—Miscellaneous—32.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts.		
				1900–1901.	1899–1900.	1898–99.
Revenue	2·00	2·87	1·93	2·30	1·93	1·79
Expenditure	2·00	1·69	1·92	1·73	1·64	1·48

Revenue.—The excess in the revised estimate for 1901–1902 as compared with the budget estimates for that year and for 1902–1903 is due to recoveries effected by the sale of cloths manufactured as a means of relief to weavers during famine prior to 1901–1902. The chank fisheries on the Tinnevelly, Madura and Tanjore coasts have been more successful than was anticipated.

Expenditure.—The various minor heads comprised within the major head are expected to produce a saving on the budget estimate for 1901–1902 in spite of unexpected expenditure on commissions of enquiry, and on the deputation on special duty for a short period of the Hon'ble Mr. F. A. Nicholson as a member of the Agricultural Banks' Conference.

Famine Relief—33.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts.		
				1900–1901.	1899–1900.	1898–99.
Expenditure—						
In charge of Civil Officers ...	...	·20	...	·07	·31	·08
In charge of Public Works Officers	...	·44	...	1·06	·02	·11
Total, Provincial (Civil and P.W.D.).	...	·64	...	1·13	·33	·19

No provision for famine-relief expenditure was included in the budget estimates for 1901–1902, but a supplemental grant of one lakh was subsequently sanctioned by the Government of India. Expenditure was incurred in the districts of Cuddapah, North Arcot, Anantapur and Chingleput, and relief measures came to a close in January. The revised estimates for 1901–1902 represent the net estimates after taking in deduction of charges recoveries relating to expenditure on weavers' relief in the year 1901-1902. Similar recoveries relating to expenditure incurred in previous years are credited to receipts.

A small portion of the expenditure shown in the Public Works department section will ultimately be debited to district boards.

XXX.—Minor Works and Navigation—43.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts.		
				1900–1901.	1899–1900.	1898–99.
Revenue—						
Civil Officers	·11	·11	·10	·14	·10	·09
Public Works Officers	1·28	1·65	1·26	1·48	1·58	1·75
Total ...	1·39	1·76	1·36	1·62	1·68	1·84
Expenditure—						
Maintenance and upkeep of Minor Irrigation Works—						
Civil Officers	6·75	4·35	5·05	4·61	3·97	3·94
Public Works Officers ...	34·91	31·00	30·35	30·29	29·52	28·39
Total ...	41·66	35·35	35·40	34·90	33·49	32·33

Revenue.—The receipts shown against "Civil officers" represent contributions by ryots, and fines levied under Act I of 1858.

Expenditure.—The fall in the revised estimate under "Civil officers" is partly due to the transfer of ·50 to the head "Public Works officers" to provide for works executed by civil officers acting as public works disbursers. The budget for 1902–1903 under this head provides for a larger number of minor irrigation works.

The excess in the revised estimate under "Public Works officers" has been caused mainly by the transfer from "Civil officers" mentioned above.

The budget allotment for 1902–1903 includes a sum of 1·50 under "Civil officers" and a sum of 4·06 under "Public Works officers" which it is proposed to spend on irrigation works from the special grant of 10 lakhs made by the Government of India to which reference has already been made.

XXXII.—Civil Works—45.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts.		
				1900–1901.	1899–1900.	1898–99.
Revenue—						
Civil Officers	·08	·10	·16	·18	·05	·04
Public Works Officers	1·86	1·86	1·85	1·69	1·88	1·70
Total ...	1·94	1·96	2·01	1·87	1·93	1·74
Expenditure—						
Civil Officers	·56	1·02	1·18	1·71	4·31	1·87
Public Works Officers	35·36	28·09	26·87	23·71	27·32	25·16
Unallotted Grant	...	...	6·00	...	...	...
Total ...	35·92	29·11	34·05	25·42	31·63	27·03

Revenue.—The fall in the revised estimate for 1901–1902 and in the budget for 1902–1903 under "Civil officers" is due to the transfer to the estimates of the Public Works department of the receipts from tolls on the Pottanghi ghât road in the Vizagapatam district.

Expenditure.—The grant of ·07 included in the budget for 1901–1902 under "Civil officers" for the bacteriological treatment of sewage has not been utilized. The increase in the revised estimate under "Public Works officers" is due principally to additional grants made from the sum of 6 lakhs placed by the Government of India at the disposal of this Government in the budget estimate for 1901–1902.

The budget for 1902–1903 under "Civil officers" excludes allotments required for works costing over Rs. 1,000 each in the Agency tracts of Ganjám and Vizagapatam as these have been provided for in the Public Works department section of the estimates. The usual grant for public works in the Gódávari Agency now appears under Contributions as a contribution to the Gódávari district board in consequence of the formation of the Agency tracts into a local fund taluk.

The grant to the Public Works department for 1902–1903 includes the following special allotments:—(1) an allotment of 1·26 for works costing over Rs. 1,000 each to be carried out by civil officers acting as public works disbursers, as such expenditure has to be audited by, and booked in, the Public Works department; (2) an allotment of 3·60 from the special assignment of 10 lakhs made by the Government of India in the revised estimate for 1901–1902 for works to be completed within 1902–1903; and (3) a special assignment of 5·50 entered in the budget for 1902–1903 by the Government of India, which it is proposed to expend mainly on feeder roads to railways and other roads and bridges and partly on buildings and other public works. The exact distribution of the last-mentioned allotment is under consideration.

CONTRIBUTIONS.

—	Budget estimate, 1902–1903.	Revised estimate, 1901–1902.	Budget estimate, 1901–1902.	Accounts.		
				1900–1901.	1899–1900.	1898–99.
Revenue—Contributions from Local Funds—						
Ordinary	3·27	2·62	3·49	2·97	2·62	2·59
Tanjore District Board Railway.	...	...	·36	·48	·13	...
Total ...	3·27	2·62	3·85	3·45	2·75	2·59
Expenditure—Contributions to Local Funds—						
Ordinary	3·09	3·42	3·36	2·64	5·25	2·48
Tanjore District Board Railway.	...	...	...	...	·49	·39
Total ...	3·09	3·42	3·36	2·64	5·74	2·87

Revenue.—The fall in the revised estimate as compared with the budget estimate for 1901–1902 has been caused by smaller recoveries from local boards on account of printing at Government presses and on account of recoveries of famine expenditure. Certain surveys of inam villages, for the recovery of the cost of which the budget provided, have also had to be postponed to 1902–1903.

The budget estimate for 1902–1903 includes a contribution of ·10 to be made by the Kurnool district board towards the erection of a hospital at Nandyal. It also anticipates the recovery from the district boards concerned of expenditure on the block survey and classification of whole inam villages to be incurred in the first instance from Provincial funds, and takes credit for an enhanced contribution from Local funds on account of reserve medical subordinates in consequence of the revised method of apportioning the cost of these subordinates between Provincial and Local funds.

The proportionate net profits of the Tanjore District Board Railway disappear from the revised estimate for 1901–1902 and the budget estimate for 1902–1903, as the entire profits of the railway are credited to the Tanjore district board with effect from the 1st April 1901, the outlay from Provincial funds on the railway (12·35) being treated as a loan to the district board on which it pays interest to the Government of India. The Government of India has granted an assignment of ·53 both in the revised estimate for 1901–1902 and in the budget estimate for 1902–1903 to compensate Provincial funds for the deprivation of this source of income.

Expenditure.—The revised estimate for 1901–1902 includes a larger allotment to Local funds on account of public works.

The budget estimate for 1902–1903, whilst providing a smaller allotment for public works generally, includes grants for the Berhampur-Govindapur and the Kallikota-Boirani roads in the Ganjám district, and for public works in the newly-constituted Local fund taluk of Bhadráchalam.

INCORPORATED LOCAL AND SPECIAL FUNDS.

Appendix B shows in abstract the accounts and estimates under Incorporated Local and Special Funds. The Special Funds comprise the Village Service and the Irrigation Cess Funds. The administration reports published annually give in detail the working of the several local boards, their revenue and expenditure.

PROVINCIAL LOANS AND ADVANCES.

Appendix C shows the accounts and estimates under Provincial Loans and Advances.

FORT ST. GEORGE,
31st March 1902.

J. THOMSON.

Heads of Revenue.	Budget Estimate, 1902-1903.	Revised Estimate, 1901-1902.	Budget Estimate, 1901-1902.	Accounts, 1900-1901.
	LAKHS.	LAKHS.	LAKHS.	LAKHS.
Principal Heads of Revenue.				
I.—Land Revenue—				
Collections	141·90	141·40	140·47	139·18
Adjustments	33·81	61·27	50·74	16·29
III.—Salt	1·02	1·08	·86	1·06
IV.—Stamps	65·63	65·63	64·62	64·24
V.—Excise	36·00	36·00	34·25	33·97
VII.—Customs	·85	·88	·80	·92
VIII.—Assessed Taxes	14·12	14·12	13·50	13·79
IX.—Forest	12·50	12·75	12·00	11·70
X.—Registration	7·40	7·40	6·50	7·24
Total ..	313·23	340·53	323·74	288·39
XII.—Interest	2·25	2·29	2·37	2·35
Receipts by Civil Departments.				
XVI.—Law and Justice—				
A.—Courts of Law .. .	7·68	7·57	7·57	7·31
B.—Jails	5·25	5·50	5·00	6·21
XVII.—Police—				
Police	2·20	2·44	2·37	2·37
Cattle Pounds	3·31	3·30	3·47	3·15
XIX.—Education	1·82	1·97	1·85	1·89
XX.—Medical	1·19	1·15	1·11	1·22
XXI.—Scientific and other Minor Departments	6·71	5·47	5·59	4·86
Total ..	28·16	27·40	26·96	27·01
Miscellaneous.				
XXII.—Receipts in aid of Superannuation, etc.	·59	·65	·54	·54
XXIII.—Stationery and Printing	·90	·87	·91	·88
XXV.—Miscellaneous	2·00	2·87	1·93	2·30
Total ..	3·49	4·39	3·38	3·72
Irrigation.				
XXX.—Minor Works and Navigation—				
In charge of Civil Officers ..	·11	·11	·10	·14
„ Public Works Officers.	1·28	1·65	1·26	1·48
Total ..	1·39	1·76	1·36	1·62
Buildings and Roads.				
XXXII.—Civil Works—				
In charge of Civil Officers ..	·08	·10	·16	·18
„ Public Works Officers.	1·86	1·86	1·85	1·69
Total ..	1·94	1·96	2·01	1·87
Contributions from Local Funds.				
Ordinary	3·27	2·62	3·49	2·97
Tanjore District Board Railway	..	..	·36	·48
Total ..	3·27	2·62	3·85	3·45
Total Revenue and Receipts ..	353·73	380·95	363·67	328·41
Opening Balance ..	45·22	2·46	·89	5·67
Grand Total ..	398·95	383·41	364·56	334·08

AND ESTIMATES—MADRAS.

Heads of Expenditure.	Budget Estimate, 1902-1903.	Revised Estimate, 1901-1902.	Budget Estimate, 1901-1902.	Accounts, 1900-1901.
	LAKHS.	LAKHS.	LAKHS.	LAKHS.
Direct Demands on the Revenue.				
1.—Refunds and Drawbacks	1·27	1·35	1·24	1·15
Charges in respect of Collections.				
3.—Land Revenue	56·60	52·55	53·68	52·70
5.—Salt	4·24	3·99	4·35	3·99
6.—Stamps	2·49	2·58	2·34	2·42
7.—Excise	2·54	2·53	2·56	2·52
9.—Customs	2·80	2·79	2·81	2·74
10.—Assessed Taxes	·16	·16	·16	·15
11.—Forest	9·62	8·60	8·88	8·58
12.—Registration	4·45	4·38	4·42	4·32
Total ..	82·90	77·58	79·20	77·42
Interest.				
13.—Interest on ordinary Debt	1·82	1·79	1·91	1·80
Post Office, Telegraph and Mint.				
15.—Post Office	1·07	1·07	1·07	1·05
Salaries and Expenses of Civil Departments.				
18.—General Administration	10·80	10·24	10·00	10·07
19.—Law and Justice—				
A.—Courts of Law	49·62	47·75	47·77	47·92
B.—Jails	13·01	13·98	12·32	13·54
20.—Police—				
Police	46·98	45·28	45·31	44·41
Cattle Pounds	2·59	2·40	2·64	2·43
21.—Marine	·11	·11	·12	·10
22.—Education	27·22	18·19	18·38	17·68
24.—Medical	15·17	13·01	13·64	13·44
25.—Political	·79	·76	·75	·75
26.—Scientific and other Minor Departments ..	8·72	6·56	7·15	6·71
Total ..	175·01	158·28	158·08	157·05
Miscellaneous Civil Charges.				
29.—Superannuation Allowances and Pensions..	17·98	17·70	17·60	17·39
30.—Stationery and Printing	10·79	10·21	10·73	9·94
32.—Miscellaneous	2·00	1·69	1·92	1·73
Total ..	30·77	29·60	30·25	29·06
Famine Relief and Insurance.				
33.—Famine Relief	..	·64	..	1·13
Irrigation.				
43.—Minor Works and Navigation—				
In charge of Civil Officers	6·75	4·35	5·05	4·61
" Public Works Officers ..	34·91	31·00	30·35	30·29
Total ..	41·66	35·35	35·40	34·90
Buildings and Roads.				
45.—Civil Works—				
In charge of Civil Officers	·56	1·02	1·18	1·71
" Public Works Officers ..	35·36	28·09	26·87	23·71
Unallotted grant	..	..	6·00	..
Total ..	35·92	29·11	34·05	25·42
Contributions to Local Funds.				
Ordinary	3·09	3·42	3·36	2·64
Total Expenditure ..	373·51	338·19	344·56	331·62
Closing Balance ..	25·44	45·22	20·00	2·46
Grand Total ..	398·95	383·41	364·56	334·08
Surplus ..	..	42·76	19·11	..
Deficit ..	19·78	..	..	3·21

APPENDIX B.

INCORPORATED LOCAL AND SPECIAL FUND ACCOUNTS AND ESTIMATES.

Heads of Revenue.	Budget estimate, 1902-1903. Local Funds Act V of 1884.	Budget estimate, 1902-1903. Special Funds.	Budget estimate, 1902-1903. Total.	Revised estimate, 1901-1902. Local Funds Act V of 1884.	Revised estimate, 1901-1902. Special Funds.	Revised estimate, 1901-1902. Total.	Budget estimate, 1901-1902. Local Funds Act V of 1884.	Budget estimate, 1901-1902. Special Funds.	Budget estimate, 1901-1902. Total.	Actuals, 1900-1901. Local Funds Act V of 1884.	Actuals, 1900-1901. Special Funds.	Actuals, 1900-1901. Total.
I. Land Revenue.	1·21	26·07	27·28	1·23	26 86	28·09	1·24	26·02	27·26	1·01	21·94	25·95
VI. Provincial rates.	58·92	27·49	86·41	57·61	28·28	85·89	57·10	27·45	84·55	57·28	27·73	85·01
XII. Interest ..	·54	..	·54	·73	..	·73	·40	..	·40	·69	..	·69
VI-A. Law and Justice—Courts of Law.	.21	..	·21	·21	..	·21	·21	..	·21	·20	..	·20
XIX. Education ..	2·57	..	2·57	2·48	..	2·48	2 53	..	2·53	2 38	..	2·38
XX. Medical ..	·61	..	·61	·55	..	·55	·65	..	·65	·51	..	·51
XXII. Superannuation.	·01	..	·01	·01	..	·01	·01	..	·01	..	..	..
XXV. Miscellaneous.	5·47	..	5·47	5·59	..	5·59	6·04	..	6·04	5·17	..	5·17
XVI. State Railways Gross traffic receipts.	3·60	..	3·60	3·00	..	3 00	2·30	..	2·30	2·42	..	2·42
XXII. Civil Works.. By P.W.D...	11·43 ·07	.. ..	11·43 ·07	11·69 ·07	·01 ..	11·70 ·07	10·32 ·07	·01 ..	10·33 ·07	11·32 ·07	·01 ..	11·33 ·07
Contributions	3·09	..	3·09	3·42	..	3·42	3·36	..	3·36	2·66	·05	2·71
Balance of Provincial Savings.	..	..	..	..	..	..	..	..	..	..	..	..
Total, Revenue ..	87·73	53·56	141·29	86·59	55·15	141·74	84·23	53·48	137·71	83·74	52·73	136·47
Debt deposits	..	..	..	..	..	..	..	..	..	..	..	— 1·91
Surplus or deficit ..	..	..	— 21·76	..	..	+ 4·29	..	..	— 9·61	..	..	5·43
Opening balance { Service.. Debt. ..	.. ..	.. ..	39·05 ..	.. ..	.. ..	34·76 ..	.. ..	.. ..	28·61 ..	.. ..	.. ..	29·33 — 7·56

Heads of Expenditure.	Budget estimate, 1902-1903. Local Funds Act V of 1884.	Budget estimate, 1902-1903. Special Funds.	Budget estimate, 1902-1903. Total.	Revised estimate, 1901-1902. Local Funds Act V of 1884.	Revised estimate, 1901-1902. Special Funds.	Revised estimate, 1901-1902. Total.	Budget estimate, 1901-1902. Local Funds Act V of 1884.	Budget estimate, 1901-1902. Special Funds.	Budget estimate, 1901-1902. Total.	Actuals, 1900-1901. Local Funds Act V of 1884.	Actuals, 1900-1901. Special Funds.	Actuals, 1900-1901. Total.
1. Refunds	·06	·01	·07	·09	·56	·65	·08	·04	·12	·09	·02	·11
3. Land Revenue ..	..	51·91	51·91	..	50·45	50·45	..	51·78	51·78	..	49·62	49·62
14. Interest on other obligations.	·03	..	·03	·03	..	·03	·01	..	·01	.01	..	·01
18. General Administration.	3·32	..	3·32	2·94	..	2·94	3·14	..	3·14	3·01	..	3·01
22. Education ..	11·05	..	11·05	10·31	..	10.31	10·70	..	10·70	10·26	..	10·26
24. Medical ..	19·23	..	19·23	15·58	..	15·58	16·99	..	16·99	15·17	..	15·17
29. Superannuation ..	·44	..	·44	·46	..	·46	·38	..	·38	·45	..	·45
30. Stationery and Printing.	·73	·22	·95	·47	·25	·72	·47	·25	·72	·82	·21	1·03
32. Miscellaneous ..	3·19	..	3·19	2·86	..	2·86	3·07	..	3 07	2·93	..	2·93
33. Famine Relief ..	..	..	..	..	..	..	..	..	..	·49	..	·49
38. State Railways, working expenses.	2·13	..	2·13	1·69	..	1·69	1·53	..	1·53	1·36	..	1·36
Interest on Capital deposited by Companies.	·47	..	·47	·39	..	·39	·95	..	·95	..	..	..
Interest chargeable against companies on advances.	·49	..	·49	·49	..	·49	..	..	..	..	..	..
43. Minor Works and Navigation, P.W.D.	..	·10	·10	..	·14	·14	..	·14	·14	..	·03	·03
45. Civil Works .. By P.W.D ..	52·04 .39	·86 ..	52·90 ·39	43·01 ·39	·57 ..	43·58 ·39	46·23 ·36	·93 ..	47·16 ·36	42·02 ·35	·69 ..	42·71 ·35
45-A. Construction of Railways.	13·11	..	13·11	4·15	..	4·15	6·42	..	6·42	..	..	..
Contributions ..	2·83	·44	3·27	2·15	·47	2·62	3·40	·45	3·85	3·10	·41	3·51
Total, Expenditure ..	109·51	53·54	163·05	85·01	52·44	137·45	93·73	53·59	147·32	80·06	50·98	131·04
Closing balance { Service.. Debt ..	.. ..	.. ..	17·29 ..	.. ..	.. ..	39·05 ..	.. ..	.. ..	19·00 ..	.. ..	.. ..	34·76 — 9·47

APPENDIX C.

PROVINCIAL LOANS AND ADVANCES.

—		Budget, 1902–1903.	Revised, 1901–1902.	Budget, 1901–1902.	Accounts. 1900–1901.	1899–1900.	1898–99.	1897–98.	1896–97.
Class I—Advances to Cultivators ..	Balance	38·03	38·43	40·00	38·79	42·81	47·61	32·54	30·06
	Advances	4·54	4·02	4·52	4·15	3·42	3·26	17·85	5·53
	Recoveries	3·67	4·42	3·40	4·51	7·44	8·06	2·78	3·05
	Balance	38·90	38·03	41·12	38·43	38·79	42·81	47·61	32·54
Class III—Loans to Land-holders and Notabilities.	Balance	·17	..	·56	..	·01	·04	·07	·10
	Advances	·39	·17	..	..	..	..	..	..
	Recoveries	..	..	·19	..	·01	·03	·03	·03
	Balance	·56	·17	·37	..	..	·01	·04	·07
Class IV (a)—Loans to Mufassal Municipalities.	Balance	12·69	12·28	12·71	12·61	12·67	13·05	12·38	9·06
	Advances	·87	·98	2·40	·27	·52	..	1·15	3·58
	Recoveries	·61	·57	·58	·60	·58	·38	·48	·26
	Balance	12·95	12·69	14·53	12·28	12·61	12·67	13·05	12·38
Class IV (b)—Loans to District Boards ..	Balance	·40	·50	..	..	·05	·13	·34	·50
	Advances	..	..	..	·50	..	..	..	..
	Recoveries	·10	·10	..	..	·05	·08	·21	·16
	Balance	·30	·40	..	·50	..	·05	·13	·34
Total, Provincial Loans and Advances.	Balance	51·29	51·21	53·27	51·40	55·54	60·83	45·33	39·72
	Advances	5·80	5·17	6·92	4·92	3·94	3·26	18·99	9·11
	Recoveries	4·38	5·09	4·17	5·11	8·08	8·55	3·49	3·50
	Balance	52·71	51·29	56·02	51·21	51·40	55·54	60·83	45·33

MADRAS: PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

Proceedings of a Meeting of the Council of the Governor of Fort St. George, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament, 24 and 25 Vic., cap. 67, and 55 and 56 Vic., cap. 14.

The Council met at the Council Chamber in Stonehouse Hill, Ootacamund, at 12 noon on Monday the 2nd day of June 1902.

PRESENT:

His Excellency the Governor—*Presiding*.
The Hon'ble Mr. J. THOMSON.
The Hon'ble Mr. G. STOKES.
The Hon'ble Mr. G. S. FORBES.
The Hon'ble Lieut.-Col. SIR GEORGE MOORE, *Kt.*, C.I.E.
The Hon'ble Mr. A. J. YORKE.
The Hon'ble Mr. EARDLEY NORTON.
The Hon'ble S. SRINIVASARAGHAVA AIYANGAR Avargal, C.I.E., Diwan Bahadur.
The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal, Rao Bahadur.
The Hon'ble P. RATNASABHAPATI PILLAI Avargal.
The Hon'ble G. SRINIVASA RAO Avargal.
The Hon'ble Mr. G. H. STUART.
The Hon'ble Col. A. W. SMART, R.E.
The Hon'ble Mr. G. L. ACWORTH.
The Hon'ble Mr. F. A. NICHOLSON, C.I.E.
The Hon'ble Mr. M. HAMMICK, C.I.E.
The Hon'ble Mr. G. T. MACKENZIE.

ADDITIONAL MEMBERS.

12-10 P.M. The Secretary reported that the following gentlemen took their seats as additional members of Council:—

The Hon'ble Mr. F. A. NICHOLSON.
" Mr. M. HAMMICK.
" Mr. G. T. MACKENZIE.

THE PEACE.

His Excellency the President in opening the proceedings said:—Honourable Gentlemen,—Throughout the British Empire to-day no two subjects of His Majesty will meet without exchanging words of thankfulness and joy over the cessation of the war in South Africa and the signing of peace. Now corporate bodies are subject to the same feelings and emotions as the individuals who constitute them, and it would be strange and unnatural if this Council were to proceed to the business of the day without giving expression to the feelings of gladness and thankfulness at the tidings brought by this morning's telegrams with which all its members are animated. I am sure therefore you will allow me, as your President, to say for you all, unless indeed the Honourable Members wish to express their own sentiments, that we are met together this morning with feelings of profound thankfulness to the Almighty that the blessings of peace have once more been vouchsafed to us, and a deeper sense of rejoicing than we have known for three long weary years.

Here in India, it is difficult for us to realise the weariness and long drawn agony which the war has been to our fellow-citizens in the United Kingdom and the other parts of Greater Britain whence a continuous stream of the best manhood has been poured into South Africa to shed their blood in the sacred cause of the honour and integrity of the British Empire.

Only those who have been near the nerve centre of the Empire and who have had friends and relations at the front can quite realise what it has been; but every British subject, wherever he has been, has had some share in the national anxiety and the weariness and suspense of the past three years, and now shares in the national rejoicing. From this day forward we can regard the Boers as no longer our enemies, but as our friends to be, and as future loyal fellow citizens of the British Empire.

Though their attack on us was senseless and unprovoked, though their cause was an unjust cause, we know that the best of them, those who were most valiant and heroic and enduring in fighting against us, believed that their cause was just and righteous.

This knowledge and the bravery and self-sacrifice of our former foes makes it easy for us to extend to them the hand of friendship and fellowship. Surely, they will see when they glance around the Empire, in which they will henceforward be our co-partners and fellow-citizens, that the rights and liberties which they hold sacred and for which they so readily shed their blood will be better safeguarded and more prospered under British rule than they were under the rule of the self-seeking and corrupt clique who deceived and misled them, and risked neither life nor wealth in the stupendous struggle to which they committed the peace-loving and simple folk who were misguided enough to trust them.

By the goodness of Providence the month of His Majesty's Coronation has opened with the bright dawn of peace, after the long dark night of storm and warfare.

Surely we may recognise in this a further instance of the wonderful goodness with which the Almighty has watched over and preserved the great Empire of which we are citizens and look forward with hopeful confidence to a new era of peaceful progress for civilisation and humanity.

QUESTIONS.

The Hon'ble G. Srinivasa Rao Avargal:—

I. Is it a fact that the Madras Government have recently issued an order that when a native official is appointed to hold a post to which a residence built for Europeans is attached, the Collector and the Superintending Engineer shall decide whether the native officer shall occupy the residence and pay rent therefor?

If true, will the Government be pleased so to modify the order as to do away with the distinction which is thus made between an European and a native officer who is fit to hold the office?

The Hon'ble Colonel Smart:—

I. The Honourable Member's question is answered in the affirmative. The order was passed as much in the interests of native as of European officers, and is in keeping with the rules on this subject to be found in the Government of India Public Works Code. Several complaints had been received from native officers compelled to occupy residences built for Europeans and which were found to be most unsuitable for Hindus. On the other hand, Europeans sometimes objected to occupying houses vacated by natives until a considerable sum had been spent on the buildings, which had been put to uses for which they were not intended. The Government see no necessity for altering the order.

The Hon'ble G. Srinivasa Rao Avargal:—

II. (*a*) Are the Government aware that there is not work enough for two sub-courts in Tinnevelly and that the Tinnevelly people are praying to be relieved of the unnecessary privilege of having two sub-courts?

(*b*) Are the Government further aware that the judicial work in Tellicherry is such that the sub-court is absolutely required there and that the people of Tellicherry not only protested against its removal some years ago but require it now?

If so, will the Government be pleased to grant the prayers of the people and have a sub-court at Tellicherry?

The Hon'ble Mr. Forbes :—

II. (*a*) In the opinion of the High Court and of Government the amount of judicial work in the Tinnevelly district is at present such that two subordinate judges' courts are required. No representation from the residents of the district asking for the abolition of one of the courts has reached Government.

(*b*) The Government have found upon a careful consideration that a permanent sub-judge's court is not required at Tellicherry. Proposals for the temporary establishment there of a sub-judge's court are now under consideration. No protest was received from the people of Tellicherry when the sub-court was removed from that place.

The Hon'ble G. SRINIVASA RAO Avargal :—

III. Have the results of the crop experiments made on lands by the Revenue officers of the presidency in recent years, and the resulting commutation rates, been tabulated, and, if so, will the Government be pleased to lay them on the table ?

The Hon'ble Mr. Hammick :—

III. The crop experiments made and the commutation rates adopted at recent settlements will be found set out in the settlement reports that have been published. Other crop experiments are made by revenue officers, not for settlement purposes but with the object of estimating food stocks. A quinquennial report on this latter subject is submitted to the statistical bureau of the Government of India. The report last submitted will be found in Board's Proceedings, No. 633, dated 23rd September 1897, a copy of which will be laid on the table.

The Hon'ble G. SRINIVASA RAO Avargal :—

IV. Is it true that in filling vacancies in the office of the head writer in Collectors' offices the claims of the officials who receive Rs. 100 or Rs. 120 per mensem but who are out in the interior of the districts are generally overlooked, and preference is given to those who draw less pay but who are employed in the Collector's office at the head-quarters of the district, and this practice works a great hardship to the deserving many whose only fault is that they are not near at hand ?

If this is so, will the Government be pleased to issue such orders as may ensure the promotion of officials according to their service and merits ?

The Hon'ble Mr. Hammick :—

IV. The Government have no reason to believe that the circumstances are as suggested in the question. The principles that should be followed in making appointments in district offices are enunciated in the Standing Orders of the Board of Revenue (Order No. 128), and as far as the Government are aware these principles are observed. No further instructions are required.

The Hon'ble G. SRINIVASA RAO Avargal :—

V. Is it the case that departmental orders issued by the Inspector-General of Police and his subordinates for a stricter working of the provisions under sections 109 and 110 of the Criminal Procedure Code have had the effect of abnormally increasing the number of miscellaneous cases charged by the police under those sections with an incredibly large number of stray and unreliable witnesses to prove them and that the valuable time of the Sub-divisional Magistrates is thereby wasted in profitless inquiries to the great prejudice of other and more important work ?

Will the Government be pleased to collect the statistics on the point and modify the orders in question if, on enquiry, they are found to work any injustice ?

The Hon'ble Mr. Forbes :—

V. The Government are aware that the orders referred to by the Honourable Member have resulted in a freer use being made of the security sections of the Criminal Procedure Code. Statistics of such cases are given in the annual police administration reports, but they do not warrant the conclusions drawn by the Honourable Member. The Government see no reason to interfere with the Inspector-General's orders on the subject, which have their entire approval.

The Hon'ble G. SRINIVASA RAO Avargal :—

VI. Are the Government aware that during his inspection of Kálahasti sub-jail the Head Assistant Magistrate of North Arcot found a respectable person sixteen times remanded by the Sub-Magistrate on a charge of theft of a blanket worth six rupees, and that in his judgment in calendar case No. 44 of 1902, dated 27th March 1902, the Head Assistant Magistrate has acquitted the accused and held that the Sub-Magistrate and the Police Inspector were willing tools in the hands of the prosecution? If the facts are as stated, will the Government be pleased to take note of the conduct of the above-mentioned public servants and deal with them in such manner as public interests demand?

The Hon'ble Mr. Forbes :—

VI. The Government have no official information on the subject, but will call for a report.

The Hon'ble G. SRINIVASA RAO Avargal :—

VII Is it a fact that the Brahmans of Cuddapah who have the right to perform their Sriramanavami worship in their own quarters were first allowed to celebrate it, and then when all preparations had been made for its celebration were prevented by the District Magistrate from celebrating it for fear of the Muhammadans of the place? Will the Government be pleased to take steps to prevent the recurrence of such infringement of private rights?

The Hon'ble Mr. Forbes :—

VII. The Government learn that on the 17th April last the District Magistrate of Cuddapah, in consequence of a disturbance which had occurred on the previous day, found it necessary in the interests of the public peace to prohibit the playing of bhajana music during the Muharram. Full discretion as to the measures necessary for the preservation of the peace is vested in the District Magistrate.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—

VIII. Has the attention of Government been drawn to the correspondence, which appeared in the *Madras Standard*, dated the 10th May 1902, headed "The Panayavaram breach in the Trichinopoly taluq", stating—(1) that the Public Works Department (probably the District Board) has entered into a contract with the Srírangam Municipality to collect the tolls and keep the road to Kumbakónam in repair; (2) that road does not appear to have been repaired for three years and more; (3) that Panayavaram is on the banks of the Coleroon, and that three years ago there was a breach in the Coleroon bank to an extent of 200 yards; (4) that the breach has been closed for about 100 yards and that the remaining portion has not been closed; (5) that, in consequence, the adjoining rice-fields are immersed in water to the extent of 2,500 acres, that many lands have not been cultivated for three years, and that the revenue officers have declined to remit the tax; and (6) that Mr. S. Venkatesa Aiyangar has wired to His Excellency the Governor praying for redress?

Will Government be pleased to say whether the above statements are true, and whether any and what notice has been taken of the matter?

The Hon'ble Colonel Smart :—

VIII. (1) and (2).—The Government have no information on the subject, but will call for a report from the President of the District Board. (3) and (4).—By the heavy floods in the Coleroon about the middle of August 1900 there occurred several breaches in its right bank including the breach at Panayavaram referred to by the Honourable Member. The work of closing the breach was soon commenced, but before it was fully completed the flood of 1901 opened the bank again. Repairs to the damages done by the flood of 1901 are now in progress. As to (5), the Government have no information on the subject. The matter is one for disposal in the ordinary course of business. (6) The telegram sent by Mr. Venkatesa Aiyangar has been referred to the Superintending Engineer, VI Circle, and will be disposed of on receipt of that officer's report.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

IX. Whether, under the rules in force, a failed medical student for the grade of hospital assistant is prohibited from appearing again for the examination, and, if so, will Government be pleased to take steps to revise the rules in view to failed students being enabled to appear again for the examination ?

The Hon'ble Mr. Forbes :—

IX. The Honourable Member is referred to the rules on the subject given in paragraph 91 at page 35 of the Medical college calendar for 1901-1902. The revision of the rules is a matter which will probably come under consideration in the near future.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

X. With reference to my question No. XIII asked at the meeting of the Council held on the 8th April 1902, and the reply thereto, will Government be pleased to direct a statement to be laid on the table showing the nationality, place of birth and training, and the engineering examinations passed of those appointed to fill up the vacancies in the post of local fund engineers since the date of their resolution of January 1897 ?

The Hon'ble Mr. Forbes :—

X. A statement giving the particulars specified will be laid on the table.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

XI. Will Government be pleased to lay on the table copies of their final orders confirming the five-rupee water-rate in the case of inam and zamin lands in the Gódávari and Kistna deltas ?

The Hon'ble Mr. Hammick :—

XI. The Government are not prepared to lay the papers on the table.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

XII. (*a*) Will Government be pleased to state if they have constituted forest courts in any district to hear appeals against the decisions of the Forest Settlement-officers in certain classes of cases; if not, will Government be pleased to state the reasons for not giving effect to the provisions of the Forest Act in this respect ?

(*b*) Is it a fact that the Collector, who is to be one of the three members of a forest court constituted under section 37 of the Forest Act, is authorised by Government to hear such appeals ? Will Government be pleased to consider the advisability of constituting forest courts at an early date ?

The Hon'ble Mr. Hammick :—

XII. (*a*) Forest courts have not been constituted in any district to hear appeals from the decisions of the Forest Settlement-officers. The Act provides for the constitution of such courts in cases where no revenue officer is appointed to hear appeals from decisions on claims to rights of way, water, pasture or to forest produce. Such claims having rarely given rise to difficult questions, the necessity for providing a special tribunal to hear them has not been felt.

(*b*) Under section 37 of the Act the Collector may be a member of a forest court, under section 14 of the Act he may be, and usually is, appointed to hear appeals of the kind just mentioned, provided he is an officer of not less than twelve years' standing. The Government are not aware of any reason for constituting forest courts at the present time. The bulk of forest settlement work in this presidency has been accomplished.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

XIII. (*a*) Is any and what information available regarding the missing S.S. *Camorta*, which was due in Rangoon on the 6th May 1902 ?

(*b*) Will Government be pleased to state, as far as it is known, the cause of the loss of the vessel?

(*c*) What was the number of the crew and the passengers on board the vessel ?

(*d*) If the passengers were emigrant coolies, to what districts do they belong ?

(*e*) Whether any and what measures would be taken, in the case of the loss of the coolies, to afford reliefs to their families ?

The Hon'ble Colonel Smart:—

XIII. (*a*), (*b*) & (*c*) The S.S. *Camorta* has not been heard of since leaving Cocanada, her last port of call on 30th April. The agents have little doubt she is totally lost. The cause of the loss cannot be stated in the absence of evidence. There were on board as crew 9 Europeans and 80 natives. The vessel left Calingapatam with 619 adults and 72 minors as deck passengers, and one Eurasian boy as second-class passenger. Total 692 passengers.

(*d*) Emigration to Burma from Indian ports is not regulated under the Emigration Act, and consequently no enquiries are made on behalf of Government of passengers for Burma as to their status or occupation or the districts from which they come.

(*e*) In the absence of trustworthy information as to the individual passengers by the *Camorta*, the class to which they belonged and their pecuniary position, the Government can give no answer to this part of the question.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

XIV. With reference to the action of Government in the help most generously rendered by them to the ensuing industrial exhibition at Cocanada, will they be pleased to instruct the Collectors to take an active interest in the selection and transmission of exhibits of native manufactures to the exhibition ?

The Hon'ble Mr. Hammick :—

XIV. The Government have no doubt that Collectors will render such assistance as lies in their power to intending exhibitors.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

XV. (*a*) Is it a fact that dacoities have been rife for some time past in the district of Salem, especially in and about the neighbourhood of Kadiampatti (on the Madras Railway), and that a widespread terror prevails in those parts ?

(*b*) Will Government be pleased to ascertain and state the number of dacoities and robberies committed in the district since January last, and the number of cases detected and prosecuted to conviction ?

(*c*) Will Government be pleased to state what special measures have been adopted to suppress the crime ?

The Hon'ble Mr. Forbes :—

XV. (*a*) It is a fact that a considerable number of dacoities have occurred in the Salem district of late, but the Government understand that there have been only two dacoities this year in the neighbourhood of Kadiampatti.

(*b*) Nineteen dacoities and fourteen robberies have been reported in the Salem district since the beginning of the year. Of these, four cases of dacoity and three cases of robbery have been referred by the police as false and six cases of dacoity and one case of robbery are under trial.

(*c*) The Inspector-General of Police has personally visited the district and special arrangements have been made by him to hunt down the gang said to be at work. A special police inspector has been appointed, certain transfers of inspectors and station-house officers have been made, and the district police force has been temporarily increased.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—

XVI. (*a*) Is it a fact that in fasli 1309 a sum of Rupees five lakhs eight thousand and odd was collected in excess of the settled demand of the fasli, and that in the Gódávari and Kistna districts such excess collections were the highest? Will Government be pleased to state the circumstances under which these excess collections were made?

(*b*) Is it the case that the adjustment or cash refund of such excess collections leads to peculation on the part of village officials and causes hardship and inconvenience to ryots? Will Government be pleased to take steps to impress on the taluq and village officials the importance of collecting no more than what is due from the ryots?

The Hon'ble Mr. Hammick:—

XVI. (*a*) The question correctly states the amount of excess collections made in fasli 1309. These over-payments are in general due to causes which arise from the elastic nature of the ryotwari system. While the assessment on the land is fixed for the term of settlement there are a number of charges such as those for irrigation, for second crop and so forth that may or may not accrue in any particular year, and besides the ryot may relinquish portions of his holding, or the assessment may be remitted in whole or in part on account of seasonal failure. It is often impracticable to settle the actual demand for the revenue of the year till the close of the harvest season in March or April. But it is necessary that the payment of the year's dues shall commence in instalments as soon as the ryots are in funds with the proceeds of the early harvests in November and December. These instalments are ordinarily calculated on the basis of the previous year's demand, with the result that in some cases a greater, and in others a less, amount is collected than the demand for the year as ultimately settled. When a revision of assessments is in course of introduction as was the case in Gódávari and Kistna in fasli 1309, the new scale of rates is adopted as the basis of the first instalments, and the variations from the ultimate demand are in consequence somewhat greater than usual.

(*b*) The Government are unable to perceive in what manner the refund in cash or the adjustment in the accounts of such excess collections can lead to peculation on the part of the village officials. In the case of refund, the ryot receives the money back by cashing an order at the taluq treasury; in the case of adjustment, the excess collected is set off against the dues payable in the following year. Instructions have been issued and are well known, and, the Government believe, generally observed, that steps should not be taken to collect amounts that are likely to be ultimately remitted or postponed to the next year. But in dealing with a vast number of revenue payers it is impracticable in all cases to estimate the final demand with absolute correctness. It must be remembered that though the sums collected in excess reach a considerable annual total yet they represent less than one-hundredth part of the total annual land revenue collections.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—

XVII. (*a*) Is it the case that, when only a portion of a survey number is cultivated, the yield is distributed over the whole area in the survey number to determine the rate of the crop for the whole survey number, and that remission is refused in every case where the rate so determined exceeds one anna?

(*b*) Is it the case that, in calculating the yield of a field in the Gódávari delta for the purpose of granting remissions, ten kunchams of paddy is taken as representing one-sixteenth of an ordinary crop on an acre of wet land?

(*c*) Will the Government be pleased to ascertain, if it is not a fact, that ten kunchams does not represent one-sixteenth of an ordinary crop in the case of a majority of soils? If so, will Government be pleased to direct either that the grain valuation assigned to each soil by the settlement be taken as normal yield, or that the present average be raised to twenty kunchams?

The Hon'ble Mr. Hammick:—

XVII. The instruction at present in force on the point is materially as stated in clause (*a*) of the question when the claim is for total loss. The Government are not aware that in Gódávari a yield of ten kunchams of paddy has, in practice, been regarded as no crop. In general, remission of assessment may not be granted on a "wet" field unless the crop thereon is totally lost; but to meet the occasional cases where, the crop having withered after sprouting or transplantation, there are to be found a few ears of grain especially in the low-lying parts of a large field, the instruction referred to in the question was framed. It has not, however, been found to work satisfactorily, as, if a one-anna yield may be returned as "no crop", it is impracticable to check two-anna or even four-anna crops being similarly treated. Revised instructions will shortly be issued on this and certain other points connected with the grant of remission of assessment.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—

XVIII. Is it a fact that "nirgantis", who are employed to distribute water for irrigation in the Gódávari district, are paid out of the "village cess fund"? Do Government consider that their pay is a legitimate charge on the village cess fund? If not, will Government be pleased to direct that the amount already paid to them be credited back to the village cess fund?

The Hon'ble Mr. Hammick:—

XVIII. The nirgantis in the Gódávari district are employed mainly in the upland tracts of the district. The nirganti is one of the village servants to whom the Madras Village Cess Act IV of 1893 is applicable. The Government consider that their pay is a legitimate charge on the village service fund.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—

XIX. Will Government be pleased to place on the table copies of the final report on the introduction of the resettlement rates in the Gódávari and Kistna districts?

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—

XX. Will the Government be pleased to place on the table a detailed tabular statement showing the financial results of the scheme introduced in connection with the resettlement of the roytwari lands (1) in the Gódávari delta, (2) in the upland taluqs of Gódávari, and (3) in the portion of the Kistna district brought under settlement as to the increase in assessment (*a*) with a four-rupee water-rate, (*b*) with the five-rupee water-rate introduced in 1895?

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—

XXI. What is the increase in revenue by reason of the enhancement of water-rate from Rs. 4 to Rs. 5 in the case of inam and zamindari lands in the said deltas of Kistna and Gódávari?

The Hon'ble Mr. Hammick:—

XIX, XX, XXI. The final report on the introduction of resettlement into the Gódávari and Kistna districts has not yet been made; the information desired by the Honourable Member is therefore not at present available.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—

XXII. Will Government be pleased to place on the table the papers connected with the proposal to transfer the head-quarters of the Gódávari collectorate from Cocanada to Rajahmundry ?

The Hon'ble Mr. Forbes :—

XXII. A copy of Board's Proceedings No. 240, dated 5th October 1901, will be laid on the table.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—

XXIII. (*a*) Are the Government aware that the water-works of Cuddapah have almost completely failed this year, and that there is no pure drinking water available at that place and that this condition recurs in every year of short rainfalls?

(*b*) Considering the notoriously unhealthy nature of the place and the fact that Bugga water has to some extent reduced malarial fevers and completely stamped out cholera, will the Government be pleased at an early date to adopt or help the municipal corporation to adopt measures to extend and deepen the spring heads of the water-works scheme ?

(*c*) With the same end, will the Government be pleased to direct an investigation to be made to ascertain the feasibility of connecting the Cuddapah water-works with the Peddagadi natural reservoir, which is believed to contain an inexhaustible storage of pure drinking water, and to undertake the project if the results of the investigation are satisfactory ?

The Hon'ble Mr. Forbes :—

XXIII. (*a*) Government have no specific information but have no doubt that the Honourable Member's representations are correct.

(*b*) About 2,000 rupees were recently spent over the spring heads, apparently to little purpose. The Honourable Member's attention is drawn to paragraph 6 of the Acting Sanitary Commissioner's letter printed in G.O., No. 322 M., dated 13th March last, which seems to show that the best use is not made of the present conditions.

(*c*) Government have no information as to the Peddagadi reservoir, but understand it is seven miles distant from the water-works. The suggestion will be referred for inquiry. No pledge as to monetary assistance can be given at the present time.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—

XXIV. Will the Government be pleased to state if any scheme of water-works has been prepared and approved for Vellore town? Considering the importance and the large population of the town, which is the largest town in the North Arcot district, will the Government be pleased to pass early orders for the construction of water-works for the town?

12-30 P. M.

The Hon'ble Mr. Forbes : —

XXIV. A scheme for the water-supply of Vellore from the Palar, estimated to cost Rs. 3,13,000, was prepared in 1891, but it was eventually abandoned as being much beyond the means of the municipal council. The Sanitary Engineer is now investigating the possibility of supplying the town from the Virupatchipuram tank, and when a scheme is prepared the question of carrying it out will be considered.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—

XXV. Are there any rest-houses or choultries for travellers and visitors at Coonoor and Ootacamund, and, if not, will Government be pleased to move the

municipalities of those places and the District Board of Nilgiris to take joint action in supplying the wants?

The Hon'ble Mr. Forbes:—

XXV. There is a choultry at Ootacamund maintained by the municipal council, but none at Coonoor. The council of the latter municipality will be asked to consider the advisability of establishing a rest-house or choultry.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—

XXVI. (*a*) Whether His Excellency the Governor in Council has received a memorial, dated April or May current, from 17 ex-hospital assistant students of the Madras Medical college and of the Prince of Wales' Medical school, Tanjore, representing that, in consequence of their failure at the final examination last year to secure the required minimum in two or more subjects and 50 per cent. of the total number of marks, they have been declared ineligible for the examination any further, *even* as private pupils?

(*b*) Whether the examination for the grade of hospital assistant, unlike the L.M.S., M.B. and C.M. examinations, is purely a *vivâ voce* one, and, if so, why has it been considered necessary to place that examination on a peculiar and special footing?

(*c*) Whether Government will be pleased to take into consideration the desirability of making the examination for the grade of hospital assistant partly written and partly *vivâ voce?*

(*d*) Whether, as desired in the proceedings of the Director of Public Instruction No. 6132, dated 26th June 1900, the Principal of the Medical College submitted any proposals to revise the rules on the subject approved in G.O., No. 697, Educational, dated 7th November 1889, in view to enabling failed students to reappear for the examination after a further course of training for one year in the final year subjects, and, if so, what orders, if any, were passed by Government on such proposals?

(*e*) Whether two of the Mysore State students, viz., A. Jayasilaraya Pillai and A. Masilamani Mudali, who failed in the hospital assistants' examination of March 1900 in two subjects and also in the total marks, were permitted to attend another year's course, while P. R. Viraswami Nayudu of the Tanjore school, who failed similarly in the examination of March 1901, has been refused permission to attend for a further course of one year? If so, will Government be pleased to ascertain and state the reasons for such differentiation in the treatment of students from Mysore and the same from Tanjore?

(*f*) Whether Government will be pleased to afford all possible facilities in the promotion of medical education in the country by taking steps to revise the rules on the subject and placing the examinations for hospital assistants on a footing of equality with other examinations, medical or otherwise?

(*g*) Whether any and what orders have been passed by Government on the memorial referred to in clause (*a*) of this question?

The Hon'ble Mr. Forbes:—

XXVI. (*a*) & (*g*) The memorial reached Government five days after the receipt of the question, and orders have not yet been passed on it.

(*b*), (*c*), (*d*), (*e*) & (*f*) the Honourable Member is requested to repeat these questions at a subsequent meeting as there has not been sufficient time to obtain complete information on the points raised.

The Hon'ble G. Srinivasa Rao Avargal:—

XXVII. (*a*) Are the Government aware that the Indian non-official members of the Legislative Council are put to great inconvenience for want of proper accommodation which it is difficult to obtain at Ootacamund?

(*b*) Will the Government be pleased to provide them with suitable accommodation?

The Hon'ble Mr. Forbes :—

XXVII. (*a*) & (*b*) The Government will be glad to hear exactly how the inconvenience is caused and to receive suggestions for mitigating it.

ACT ASSENTED TO BY HIS EXCELLENCY THE GOVERNOR-GENERAL.

His Excellency the PRESIDENT announced that the law to consolidate and amend the law relating to the Court of Wards in the Madras Presidency received the assent of His Excellency the Viceroy and Governor-General on the 7th May 1902.

PETITIONS, ETC.

The Secretary reported the receipt of the following papers on the subject of the proposed legislation regarding impartible estates :—

(i) a petition from Raja Késara Ramachandrayya and others, of Mūnagala, dated the 26th May 1902;

(ii) a petition from the zamindar of Mūnagala, dated the 26th May 1902;

(iii) a petition from the zamindar of Bhadráchalam, dated the 27th May 1902;

(iv) a petition from Kachi Kalyana Rangappa Kalakka Thola Udaiyar, dated Srírangam, the 27th May 1902;

(v) memorandum from the Hon'ble Kruttiventi Perraju Pantulu Garu, dated the 27th May 1902;

(vi) a petition from the Madras Landholders' Association, dated the 29th May 1902;

(vii) a petition from Chandra Gopanna Mandrádiyar of Poravipalaiyam, dated the 29th May 1902;

(viii) a petition from Sri Raja Mudhukrishna Yachandra Bahadur, of Venkatagiri, dated the 29th May 1902;

(ix) a second petition from the zamindar of Bhadráchalam, dated the 31st May 1902; and

(x) a telegram from the zamindar of Mandasa, dated the 1st June 1902.

The Secretary laid on the table copies of a summary of transactions in the Aluminium department for the four years ending 31st March 1902 with reference to the answer given to question No. XXXII at the meeting of the Council held on the 17th February 1902.

THE MADRAS IMPARTIBLE ESTATES BILL.

His Excellency the PRESIDENT, in calling upon the Hon'ble Mr. Thomson to introduce the Madras Impartible Estates Bill, said :—

HONOURABLE GENTLEMEN :—I propose to exercise the power of regulating the order of business vested in me as President of the Council and to alter considerably the procedure which is notified in the orders of the day. I trust that when you have heard the explanation which I have to offer you will approve and support the action which I propose to take. I shall make my explanation as brief as possible. You are, of course, aware that objections have been publicly taken to the Suspensory Bill not only in respect of its several provisions, but also to the whole Bill as a method of dealing with the situation which necessitates immediate legislation. As regards the particular provisions it has been pointed out that the Suspensory Bill is incomplete

as it deals with alienations and debts only, and not with suits for partition. My colleagues and I, on considering these criticisms, came to the conclusion that it was expedient to alter the Suspensory Bill, and accordingly we asked the Government of India to assent to the addition of a provision for making the scheduled estates impartible as well as inalienable. The Government of India, replying in a telegram which we only received yesterday afternoon, objected to our proposal but suggested as a way out of the difficulty that the main Bill should be passed at once as a temporary measure, having effect for the limited period of six months or twelve months only, unless in the meantime a confirmatory Bill should on further consideration be passed into law. This procedure would, of course, obviate the necessity for a Suspensory Bill, which should consequently be dropped.

We have gladly accepted this proposal as it is more in accordance with the views which we have entertained for some time past than the procedure which is contemplated in the notice paper. The effect of the action, which we are now going to ask you to take, will, if adopted, simply be this: an Act temporary in character will be passed, and during the currency of this Act suits and remedies will be merely suspended; if the Act should not be confirmed by further legislation, these suits and remedies will revive at its expiry which is to be fixed at a definite date exactly twelve months hence.

I say twelve months hence, as it is clearly expedient to adopt the longer of the two alternative periods suggested by the Government of India. In the first place, it is not likely that we should be able to take up the further Bill until the Government have returned to Madras, and, in the second place, my colleagues and I are anxious to give that opportunity for discussion and consideration of the question which we recognise is necessary and desire to take place. I hope that after this brief explanation you will agree with me that the plan proposed by the Government of India and accepted by this Government is altogether a better one than that which we had previously contemplated as we shall thereby commit ourselves to nothing irrevocable. While we shall carry out our immediate object of protecting the ancient zamindaris of the presidency against the dangers which are now actually besetting them, we shall gain time for a full, impartial and unhampered consideration of the whole question. And if, after the mature deliberation which this interval will render possible, we come to the conclusion that the proposed legislation is inexpedient or ill-conceived, we have merely to abstain from further action, and at the expiry of twelve months the exact present position will be automatically restored. Trusting as I do that the Council will be in unanimous agreement as to the expediency of the altered procedure I shall now alter the order of the business and call upon the Hon'ble Mr. Thomson to introduce the Madras Impartible Estates Bill, 1902.

The Hon'ble Mr. J. Thomson, in introducing the Madras Impartible Estates Bill, 1902, said:—

Your Excellency:—The provisions of the Impartible Estates Bill are, as stated in the Objects and Reasons, directed towards the preservation of the ancient zamindaris of the presidency. They are briefly described as the military fiefs or the revenue farms which already existed at the time of the permanent settlement of 1802, and are not those which were called into being under Regulation XXV of that year in the carrying out of the State policy regarding land tenure which received expression by that regulation. An observation that naturally arises is why this dividing line is taken when the purpose is preservation, when there are many of these newer properties that cannot now be designated as modern and are, in their measure, valuable, and when these, in their total, comprise an area not far short of the total of those that are selected for favoured treatment. The answer is given in the first of the papers put into the hands of Honourable Members and is, briefly, that while impartibility and succession by primogeniture were the essence of the ancient zamindari tenure these attributes are awanting in modern zamindaris, and they are subject to the ordinary law of partition and succession.

It is not difficult to understand how impartibility and single succession became essential attributes of the ancient zamindaris. When land was attached to an office which required personal capacity and activity for its discharge either as payment for or in support of the duties laid upon the office, and when those duties were

continuously and satisfactorily performed, the holder and the holding gathered permanence and unity; authority naturally and necessarily was centred in one man or in one representative of a family; and the easiest and most appropriate method of his selection on a vacancy occurring was seniority in birth, other things being equal. Disruption of the property and dispossession of the family became less easy as occupation lengthened, and the misfortunes or vicissitudes of the superior authority would only the more consolidate the power and influence of the servant or feoffee, who would ordinarily be wise enough to take occasion by the hand towards his own security or aggrandisement. In whatever way these particular incidents attached themselves to the tenure, and whether referable to a political or a civil origin, they became usages or customs, and at the present day, in the courts of justice, it is upon this basis that they are held to rest, and as such usages they must be proved to exist. There is this difference, however, between their aspect now and at the time when they were evolved, that whereas then they served both the dominant and the servient parties towards the ends of both, and had their existence at the will and pleasure of the superior, their existence now is sought for only as indications of an exclusive heritage in which the State, simply as superior, has small concern.

From impartibility and single succession to the negation of alienation at the will of the holder is less than a step: the *corpus* of the property had to remain sole if the purpose of the grant was to be duly effected, and this quality was only another form of the restraint imposed by the superior, and was bound to continue while the superior was able or cared to maintain his relative position.

There would have been every reason for the full uninterrupted continuance of these incidents of the ancient zamindari tenure if the ends for which it was originally created had continued to exist. But, with a changed form of sovereignty or administration under which military or feudal service is dwindling to disappearance, while occupation has remained and possession has developed into full ownership subject only to the payment of *peshkash* or tribute, the claims of co-ordinates of the owning family were bound to come into prominence, and the influence of the ordinary law of co-parcenary to make itself felt. The only front to be opposed to such claims was that of the would-be sole owner, and the only weapon to his hand was the custom of the family. Custom, however, to be of legal force must possess antiquity and continuousness and must arise from a sense of legal necessity; family usages should be certain, invariable and continuous; and proof of these is not a simple matter generally. The law, too, as made or evolved by the judges, was developed in an unexpected fashion. It used to be held in Madras that impartible property, though its possession was necessarily with one co-parcener, did not divest the others of co-ownership; they had a claim to maintenance, and the possessor was under the obligation to preserve the estate in its totality; the general Mitakshara law was superseded only to the extent of excluding the right of partition and of joint enjoyment, but it strictly limited the disposing power of the co-parcener in sole possession over the *corpus* of the estate. In 1889, however, the judges of the Madras High Court felt themselves bound to follow the Privy Council which had held in *Sartaj Kuari* v. *Deoraj Kuari*, a case from the Allahabad High Court, that inalienability is not to be inferred as a matter of general Mitakshara law from impartibility, but depends upon custom which must be proved, though it may in some cases depend upon the nature of the particular tenure. In the absence of these, as the new doctrine runs, when an estate is simply impartible, the Mitakshara law does not exist so as to control the power of the holder in respect of alienations and gifts beyond his own lifetime. He has an absolute interest and can do as he pleases with what is his own. Accordingly we have the latest development of things in the PitHápúr case, where, no special custom of inalienability having been claimed, it was held that the owner of an impartible estate having no co-parcenary with any member of his family was entitled to dispose of it as he pleased, and therefore, as happened, by will. It was argued that a long course of decisions in the Madras courts had established a custom against the validity of such absolute alienation; but the Privy Council found a divergence of views in the judgments disentitling them to much authority, and held that the supposed law was not the law and that the custom of the courts could not make it so. In other words proof of inalienability must be proof of such custom or usage in the particular case.

The law as thus expounded has not commended itself to the common sense of the community and, least of all, to those whom, immediately at least, it would most benefit. The members of the Madras Landholders' Association have looked beyond themselves, and, apprehending calamity to their family estates and influence from the present state of the law and the uncertainty that must wait upon its application, have requested that the ancient zamindaris be declared both impartible and inalienable by statute law. Their first application was repulsed by the Government of 1893, following opinions that had acceptance nine years earlier as to the uselessness, socially and otherwise, of the class, finding objections to short cuts to declarations of impartibility and inalienability in the importance of the issues and magnitude of the interests involved, and questioning whether any estate had been inalienable since 1802. The Government of 1897, in dealing with the association's petition to the Secretary of State reclaiming against the orders of 1893, practically accepted all the positions taken up by the memorialists, viz., that their zamindaris were in fact and were intended to be impartible and the rights of their holders strictly limited, while the law of the courts, uncertain in its operation, would tend to the speedy extinction both of the zamins and of the importance of the zamin families. Opinion as to the possibilities of the class has taken a more lenient, sympathetic, sanguine and hopeful tone; their political and social proper uses as leaders of the people and interpreters between them and Government are adverted to, and—a matter of moment—it is believed that the community generally desire their continuance in dignity and influence and not their disappearance. Accordingly this Government recommended the legislation set forth in paragraph 13 of the order forming the first paper communicated to Honourable Members.

The Government of India submitted the question to the Secretary of State and added their recommendation in favour. The Secretary of State sanctioned the introduction of the Bill, but has reserved his opinion till he has considered it and its schedule. This happened more than three years ago; the intervening period has been occupied in enquiries towards the preparation of a schedule, in enquiries of proprietors, and in settling the definite form the Bill should take. It was originally proposed to fix the term 1st April, 1900, as the period subsequent to which civil court's orders should be regulated by or subject to the new legislation; but it was finally considered that debts incurred in good faith before the passing of the Bill should be recoverable in the ordinary course and not with reference to the limited powers to burden the estate which were now proposed to be assigned to the proprietor. But in order to bar arrangements which he might make in avoidance of the Act's provisions, a Suspensory Bill was agreed upon which was to subordinate all his transactions entered into subsequent to its becoming law to the provisions of the main law thereafter to be passed.

The discussion of these Bills since their publication and the amendments submitted by Honourable Members having shown a large opinion and desire in favour of the course originally intended by this Government, it seemed proper to lay the matter again before the Government of India, and on its suggestion and with its consent it is now proposed to drop the Suspensory Bill and to take the Bill itself into consideration, but to make it temporary in character. By so doing those ultimately responsible for the good government of this presidency will have time and opportunity for that consideration of the matter in all its bearings which is undoubtedly required at their hands; and while this Council affirms—if it affirms—those principles which the Bill embodies, due precautions are taken that, while the Act has currency, all private rights and liabilities as they stand under the law of the present moment shall continue unabated but suspended, so that if the Act is eventually disallowed only a minimum of harm can result to any one affected. And if it is deemed expedient that the Act should have a permanent place in the Madras Code, its temporary course is not unlikely to disclose reasons for and ways towards its improvement which can be conveniently considered before it is made permanent.

I have said that a minimum of harm will be caused under our present proposals. It is impossible that legislation of the present sort can have effect without causing injury to particular persons. If our proposals become law, those who hoped under the current law to become separate owners of portions of estates will be baulked in that expectation, and those who meant to do as they pleased with their ancient

estates will have to surrender that intention. But having regard to the newness of these hopes and intentions, and to the fact that the probability of this legislation is not absolutely of yesterday, the grievances possessed ought not to draw largely on our sympathy if it is agreed that the loss of some will be the gain of the many.

This, then, is the history of the case. It will be understood that this legislation is proposed as founded on simple justice to the class to which it is intended to be applied. It provides a return to a former state of things long accepted and regarded as both legal and reasonable until the courts considered it their duty to alter that position and introduced both uncertainty and unsettledness, along with an extension of privilege which it is not desirable that evil-disposed men should enjoy to the detriment of their families and damage to the general community, and a direct incitement to persons not in possession to try conclusions with the possessor on the large chance of being held entitled to separate ownership by judgment having to proceed mainly on the proof that might be forthcoming or adduced as to the customs of the particular family. It can hardly be accepted that such grounds for decision should govern institutions that came into existence primarily for Government reasons and purposes, and that continued to be a large part of the social and economic arrangements of the country, though they have ceased to be the direct agents of Government in its dealings with the common people. Apart, therefore, from general administrative grounds for interference, a special duty and right would seem to rest on and in Government to conserve whatever purpose or element of usefulness these zamindaris are still capable of affording. They were confirmed to or allowed to remain with their possessors for reasons of certainty, quietude, the promotion of agriculture, population, wealth and individual comfort. These are the declared reasons for the permanent settlement of 1802 and hold good for all permanent settlements. But the sacrifice which Government has made of all share in the increasing value of the granted lands is useless if these purposes are not realised; and they cannot be realised in anything like due measure, if by gross extravagance of the proprietor, or in ruinous litigation to maintain his title—to mention two main ways of damage—, the difference between the *peshkash* he pays and the market rent is dissipated and his property is made to have simply the value of an ordinary investment. My personal opinion is that in the past, with regard to several estates that I need not name, Government would have had full justification for intervention and cancelment of its grants, because the other party had acted in direct contradiction of the principles on which the grants were made. I do not discuss the academic question of the general value to the State of the continued existence of large landed properties as against the alternative condition of their becoming freely open to division and dispersion. The conditions of India and of England are essentially different in respect of land-holding and uses; there is the same desire for land ownership all the world over, but not the same ability to make proper use of land; the interests of the State in land in India are much more important than they are in England. This Government is of opinion that the highest political expediency requires that these ancient estates should not be dismembered, and the same opinion has commended itself to the Government of India. For practically the same reasons as are actuating us at the present moment Sir Thomas Munro would have entailed them eighty years ago. While the British peace has consolidated many things in that space of time, war, by and through the courts, has gathered force and volume, and in certain respects demands repression or limitation. And I can see no ground at the present day for alteration in the view Sir Thomas Munro entertained that a middle class is necessary for the stability of the empire. What is wanting, and what we live in hope of, is that such a middle class as exists should not be diminished in numbers and should become equal to its opportunities.

12-50 P.M.

With these words I beg to move that the Bill be read in Council.

The Hon'ble Mr. G. S. FORBES seconded the motion.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—

MY LORD,—I have great pleasure in supporting the motion before the Council. However much myself and my non-official colleagues might have differed from Government in regard to some of the radical and drastic provisions contained in the Court of Wards Bill, which became law in this Honourable Council at its meeting

of the 19th February last, I do not think that the most enthusiastic advocates of that measure declined to give us credit for rightly appreciating the motives of Government when it proceeded to legislate on those lines. The public were fully alive to the beneficient intentions of the Government. It was not a measure to augment the Government revenues. It was a measure purely calculated to prevent from extinction and death the ancient zamindaris, the bulk of whom had entered upon a path of self-immolation and suicide. That legislation would not be complete without a measure of the kind now proposed. The present measure follows, as a matter of course, from the one which became law in February last. In fact, several of the drastic provisions touching creditors in the new Court of Wards Act, which were so strenuously opposed by the sowcars and bankers of Madras, would become inoperative and innocuous if the Bill just introduced become law. The present Bill goes to the root of the whole matter, and defines clearly the position and status of the several estates, so that money-lenders will know where they exactly are and with whom they have to deal. Your Excellency may remember that, when the Court of Wards Bill was being passed, the Hon'ble Mr. Yorke, supported by the Hon'ble Mr. Norton, demanded that a schedule of the ancient estates worth preservation should be drawn up and attached to the Bill. That was a reasonable demand, my Lord, made on behalf of the sowcars and bankers, and I am glad that it has now been met. The motives that influence the Government in introducing and passing the Court of Wards Bill were the same as those which now influence Government in introducing the present Bill. In both the cases the object is the same, and I certainly desire that the scheduled estates, among others, should be preserved from dismemberment and decay.

In this presidency there are 849 permanently-settled estates covering an area of $27\frac{1}{2}$ million acres. The schedule attached to the Bill includes only 134 estates. In this connection, I think that power should be taken by Government to include in the schedule such other estates, from time to time, as may be found desirable to do so. These estates lie scattered in the midst of vast areas of ryotwari holdings and their preservation is called for in public interests and upon economical considerations. Properly speaking, these ancient estates ought to have been leaders of the general community in introducing improved methods of agriculture and promoting industrial enterprise. Furthermore, they ought to have been the moving spirits in the promotion of social progress. In these and other matters, the proprietors would be powerful auxiliaries to Government. The measure which is now proposed will certainly save the estates from ruinous litigation and restore them to that condition of prosperity which will enable them to take their place as leaders of the community. It seems to me, my Lord, that Government may well follow up their beneficent endeavours by introducing improved methods of education available to the sons of the proprietors, by the granting of titles and honours to such of the zamindars as prove worthy of Government recognition by prudent and efficient management of their estates, and by inviting the more important of them annually to meet the head of the Government and render in an informal way an account of their stewardship. If I am not going out of my way, I would also mention that the beneficent intentions of Government may be promoted by the sympathetic attitude on the part of the district officers, who may give the proprietors friendly advice and meet them periodically in darbar in the district head-quarters for hearing accounts of their affairs. These estates are either military fiefs or revenue farms. In either case, it follows from the very nature of their origin, constitution and tenure that they are and ought to be impartible and inalienable. The above view is not only in consonance with the general instinct of the country, but is also in accordance with natural justice and common sense. This view was uniformly maintained by the High Courts in India till their Lordships of the Privy Council intervened in the case of *Sartaj Kuari* v. *Deoraj Kuari* (I.L.R., 10 A., 272) and upset the concurrent decisions in that case of the two Indian courts. In this case the Privy Council held that, because the estate was impartible, it could be alienated. This view of the Privy Council is only a later development of the law. Their Lordships' views at earlier periods were quite the other way. In *Durga Prasad Singh* v. *Durga Konwari* (L.R., 5, I.A., 149) the Privy Council observes "the impartibility of the property does not destroy its nature as joint family property, or render it a separate estate of the last holder, so as to destroy the right of another member of the joint family to succeed to it upon his death, in preference to those who would be his heirs if the property were separate". Again in another case, in 13 Moore's

Indian Appeals, 333, the Privy Council observes "it is therefore clear that the mere impartibility of the estate is not sufficient to make the succession to it follow the course of succession to separate estates". Again in *Periyaswami* v. *Periyaswami* (L.R., I.A., 61) the Privy Council observes "he would therefore necessarily be joint in that estate so far as it was consistent with its impartible character with his two younger brothers, the latter taking such right and interest in respect of maintenance and possible rights of succession as belong to the junior members of a Raj or other impartible estate belonging to a single heir". The earlier views, my Lord, of the Privy Council are opposed to the later ones of their Lordships expressed in the 10 Allahabad case. The earlier views were in accordance with the true origin and constitution of these ancient zamindaris. The earlier views of the Privy Council were also in accordance with the views uniformly held and maintained by the several High Courts in India. And with your Excellency's permission I shall briefly refer to the rulings upon this important question of some of the High Courts in India. I venture to do so because the present Bill has been framed exactly in consonance with the principles laid down by our High Courts. To take the High Court of Madras first, we have the case of *Naraganti Achamagara* v. *Venkatachallapathi Nayanavar* (I L.R., 4 Madras, 250). In this case it was held by Sir Charles Turner and Justice Sir T. Muttuswami Aiyar that, in case of impartible estates, right of joint enjoyment and partition is incapable of existence, but that right of succession by survivorship remains, which means that the zamindar for the time being cannot will away or alienate his estate at his sweet will and pleasure. In a later case of *Beresford* v. *Ramasubba* (I.L.R., 13 Madras, 197—the Kangundi zamíndári in North Arcot) the same eminent jurist and Hindu lawyer, Justice Sir T. Muttuswami Aiyar, observes "thus the principle which has hitherto guided the courts in this presidency, as supported by the observations of the Judicial Committee, has been this: that when an estate is shown to be impartible by custom, the general law is superseded only to the extent of excluding the right of partition and of joint enjoyment, and the Mitakshara law governs the disposing power of the co-parcener, in sole possession, over the *corpus* of the estate". And the learned judge proceeds to state that this view of the law has been overruled by the Privy Council in the 10 Allahabad case already quoted which his Lordship felt compelled reluctantly to follow. There is that eminent judge's significant observation that "we are concluded by the authority of the Privy Council". And, lastly, there is the latest Madras case of the Pithápuram zamindari. In that case the District Judge held that the estate was impartible and therefore inalienable by testamentary disposition or otherwise. But the High Court of Madras in appeal held a contrary view, and said, following the 10 Allahabad case, that because the estate was impartible there was no right in any one to restrain the Raja from exercising his power to alienate it (by gift or will). When the Pithápuram case went up before the Privy Council, Mr. Mayne, that distinguished lawyer and specialist in Hindu law, contended, on behalf of the plaintiff-appellant who impeached the alienation, that the Allahabad decision should not be held applicable to the presidency of Madras and argued that there was a custom co-extensive with the province of Madras with regard to every impartible zamindari and that a long course of decisions in the courts of that province, not resting on the Mitakshara law, had established a custom of inalienability. And now, my Lord, your Lordship's Government is not introducing any novel piece of legislation, but is only legislating to give statutory sanction to the long-established custom of inalienability and the course of decisions current in this province. I may mention that this view is not peculiar to Madras. The same view has prevailed in Bengal and North-Western Provinces and Oudh. In *Rajaram Narayan Singh* v. *Pertam Singh* (I.L.R., 11 B.L.R., 397) the High Court of Calcutta upheld this view. In *Sartaj Kuari* v. *Deoraj Kuari*, *i.e.*, the very case which went up in appeal before the Privy Council (I.L.R., 10 All, 272), the High Court of Allahabad observes "it must be conceded that the complete right of ordinary co-parcenership in the other members of the family to the extent of joint enjoyment and the capacity to demand partition are merged in or, perhaps, to use a more correct term, subordinated to the title of the individual member to the incumbency of the estate, but the contingency of survivorship remains along with the right to maintenance in a sufficiently substantial form to preserve for them a kind of dormant co-ownership". In the same connection the High Court of Allahabad observes "the estate remains that of the joint family in which each member, being entitled to interest from his birth and to his turn of

succession, had a joint interest". Now, my Lord, the long-established custom and the course of decisions in this presidency, the general prevailing belief and instinct of the public at large and the views uniformly upheld and maintained by the High Courts in other parts of India, all these are opposed to the latest theory laid down by their Lordships of the Privy Council. I have therefore no hesitation in saying that the legislation undertaken by your Excellency's Government is most opportune and is certainly calculated to ensure the continued existence and prosperity of these ancient estates and save them from vexatious and ruinous litigation. Before I conclude I desire, my Lord, to invite attention to clause 3 of the Bill which begins by saying "notwithstanding anything contained in section 8 of the Madras Permanent Settlement Regulation, 1802, the proprietor of every such estate shall be restricted from alienating his estate, etc." It seems to me, my Lord, that section 8 of the regulation never intended to give to the zamindar any power to alienate away his properties to the prejudice of the members of the family or his heirs. I do not think that the framers of the regulation ever intended to bestow any power upon the zamindar which he did not otherwise possess under the personal law by which he was governed. The power of transfer by gift, sale, etc., in section 8 of the regulation was inserted only by way of emphasizing the absolute proprietary right conferred by Government on the zamindars by the sanad-i-milkiat-i-istimrar. The terms used in the regulation were only relative as against the Government. It was never meant that that power should be used as against the members of the family.

In conclusion, I beg leave to invite attention to the proposed title of the Bill. The title should be "The Madras Impartible and Inalienable Estates Bill" and not merely "The Impartible Estates Bill".

The Bill contains provisions not only about impartibility but also about inalienability and therefore the present title of the Bill is defective. As I pointed out, it was held by the Privy Council that the impartibility and inalienability did not go together, but as both impartibility and inalienability are incorporated in this Bill the title should include both. I wrote the other day to the Honourable Member in charge of the Bill suggesting this, and I also said that if the title was too long or cumbrous we might have a shorter title, namely, the Zamindari Bill. In this connection I would invite attention to section 4 of the Bill which says:

"This Act shall not apply to—

"(*a*) portions of estates included in the said schedule which have, before the coming into force of the Madras Impartible Estates Suspensory Act, 1902, been permanently transferred from the registered proprietors either by court sale or by voluntary alienation, &c."

This section should be so altered as to include not only portions of estates but also entire estates. In regard to the Kannivádi zamíndári, in respect of which the Hon'ble Mr. Eardley Norton has given notice of an amendment, it is a case which must come under the provisions of this section. But if this section should stand as it is, we cannot apply it to that zamindari, because it is not a portion of the estate but the entire estate that has been alienated before the passing of this Bill, and it therefore seems to me that the wording of this section should be so altered as to include not only portions of an estate but also entire estates which have been alienated before the passing of the new law. We must also have similar wording in clauses (*b*) and (*c*) of this section which should therefore be amended. There is one other matter to which I should like to allude before I sit down. In clause (*a*) of section 4 stress is laid upon permanent transfers. We may take cases of temporary transfers, such as leases and mortgages effected before this Bill becomes law, then these temporary transfers should also come under the provisions of this section. It seems to me that this section should be so framed as to include not only permanent alienations such as sales but also temporary alienations such as mortgages and leases. As I believe your Excellency is about to suspend the rules and pass this temporary bill into law at once, this is the only opportunity we have of making suggestions by way of amendments. I trust that the few suggestions that I have made will commend themselves to Government and be adopted before this Bill is passed to-night as a temporary measure.

The Hon'ble Mr. Eardley Norton:—I should like to say a few words upon the general principles of the Bill, and they shall be very few. The Bill itself, in my opinion, can only be justified on one of two grounds, either on the ground that it purposes to restore the Hindu law to what it was in times gone by, before the Privy Council in 10 Allahabad intervened to alter it, or on the ground that, as a matter of policy, irrespective of any question of law, it is in the view of Government desirable that the scheduled estates should be preserved in their entirety and that the power of alienability should be taken away from the owners thereof. In my view the first of these two grounds is untenable, and the second unwise. It is the privilege as well as the duty of lawyers to differ, and I beg respectfully to dissent from the proposition laid down by the Hon'ble Mr. Ratnasabhapati Pillai that this Bill proposes to restore under the cloak and guise of Hindu law the position to what it was in ancient times. This is an incorrect view of the law. Impartibility has, as I understand it, never been a portion of the Hindu law. If it is necessary I will fortify myself with the opinion of Sir Barnes Peacock, one of the ablest of the many able English judges who, in past years, adorned the various benches throughout the country, who, in the celebrated Tagore Will case, enunciated the following doctrine. He said that primogeniture, as a rule of inheritance, was unknown to Hindu law and its introduction would be entirely opposed to the spirit of the Hindu law. That is an enunciation which, in my opinion, is worth the deepest respect, and I believe that to be the correct view of the law as it was and as it is. I do not, therefore, think that the present legislation can be supported on the view of any restoration of the law to its original proportions. On the other hand, if, irrespective of any question of what the legal aspect of the case may be, this Government is of opinion that, as a matter of policy, the estates scheduled in the Bill should, for reasons advanced to-day by Your Excellency and the Honourable Mover of the Bill, be protected, then I am prepared to admit that Your Excellency's Government will have grounded their proposed measure on doctrines which are intelligible and capable of argumentative support, however distasteful those doctrines may appear to some among whom I enrol myself. Indefensible in the view of restoring ancient legal land marks, the Bill may be defensible or the reverse as the members of this Council may approve or disapprove the policy of propping up worthless zamindars. As regards that policy, I confess that the suggestion to safeguard the interests of these various zamindaris does not rouse any enthusiasm in me. I am entirely in accord with the opinions which were formulated so far back as, I think, in 1806 in the minute of Lord William Bentinck, the then Governor of Madras, and with the long and extremely able opinion written out by Mr. Thackeray, who was at one time a member of the Board of Revenue. I do not intend to read it, as the whole of it is to be found in the second volume of the Fifth Report of the Select Committee, a most valuable book, in which all the arguments *pro* and *con* have been threshed out. I am content to follow the opinion which Mr. Thackeray recorded. I also adhere to the views of this Government as expressed in 1893 from which there is to-day such a remarkable and, in my opinion uncalled for departure. Nothing has been said to disturb the wisdom of Mr. Thackeray's minute, or the conscientious investigation recorded by Lord William Bentinck. Personally, I am not in a position to admit, so far as my experience of these gentlemen is concerned, that the body of Madras zamindars is worth preserving. That is, of course, a matter partly of political consideration; and I am prepared frankly to admit that it does not follow that, because I differ, I am right. I regret the proposed measure whether as a measure of justice or as a measure of expediency. But it is not worth while to do more than openly avow my dissent. I shall not oppose the Bill to the extent of attempting to divide this meeting against it. I shall not, however, be doing myself much violence if I commit myself to the expression of the pious hope that these gentlemen, the zamindars, in whose behalf this Bill is introduced, will, in the years to come, educate themselves up to the spirit of this legislation. Neither politically, nor morally, nor intellectually, in my opinion, have the zamindars of this presidency done anything to increase the wealth or the happiness of this country. Unless they hasten themselves to alter their attitude towards their dependants, themselves and public affairs at large, it seems to me that posterity will regret the views which are being crystalised to-day into an Act. This Bill gives these gentlemen an opportunity of reconsidering their somewhat incoherent attitude in this presidency. At present, I desire to make no further remarks, because I desire to address myself solely to the general question of the policy of the Bill; and, therefore, I shall not follow my friend

in making reference to the verbal criticisms upon which he touched in regard to the sections of the Bill. I do not quite understand what is the procedure that we intend to follow to-day.

His Excellency the PRESIDENT :—If the Honourable Member will allow me to interrupt him, I shall state what the procedure is to be. The motion at present before the Council is that the Bill be read in Council. Then follows under the rules a general discussion on the principles of the Bill and its general provisions. When this discussion is over, the motion is put to the Council, and, if that is carried, the ordinary procedure will be that the Secretary should read the title of the Bill under rule 34. It is next proposed that the Honourable Member in charge of the Bill should move under rule 70 that rules 34 and 46 of the rules for the conduct of business be suspended. You will see that the effect of that would be that it obviates the necessity of referring the Bill to a Select Committee and of allowing a period of fifteen clear days from the date on which the Bill was read under rule 34. Suppose that motion is carried on my putting it to the vote under rule 19, the Honourable Member in charge of the Bill will move that the Bill be taken into consideration. That is what is known in Parliamentary usage as the stage of committee of the whole house. During that stage, amendments will be considered in the order in which they are put down on the notice paper and finally, if we are in agreement, the Honourable Member will move that the Bill be passed at once into law.

The Hon'ble Mr. EARDLEY NORTON :—The only point on which I still have a doubt is in regard to amendments. Your Excellency says that the amendments will be taken in the order in which they appear on the notice paper. There are no amendments to the Bill inasmuch as it has not been possible to give notice of any amendments.

His Excellency the PRESIDENT :—We shall have to dispense with the rest of the agenda. The amendments which we will consider will be the amendments which are to be proposed by Government.

The Hon'ble Mr. EARDLEY NORTON :—Will it be open to members to move amendments.

His Excellency the PRESIDENT :—Yes, certainly. In the circumstances I shall allow the widest latitude.

The Hon'ble Mr. EARDLEY NORTON :—That clears my mind as to what the procedure is to be. I cannot help thinking that it will be somewhat difficult for some of us to come forward with amendments on this important Bill, because, up to date my attention has been centered on the other Bill, the suspensory Bill alone and such amendments as have been printed on the notice paper have reference only to the Suspensory Bill, and there no amendments have been yet suggested to the Impartible Estates Bill. I only point this out for the purpose of showing that some of us, of whom I shall certainly be one, will be rather taken by surprise when amendments, whether they emanate from Government or from non-official members, are brought forward. We have had no notice of them and we have had no opportunity of discussing it.

His Excellency the PRESIDENT :—That is so. We regret greatly that it has been necessary to spring this alteration of procedure on the Honourable Members, but I hope that, after hearing my explanation, they will have understood that we had no alternative. The proposals reached us only yesterday.

The Hon'ble Mr. EARDLEY NORTON :—I am in entire sympathy with Your Excellency. I do not propose to throw any obstacle in the way of passing this measure. When I alluded to our being taken by surprise with amendments I only meant it with reference to our attempts to assist the Government in making this a logical Bill, because I cannot help suggesting that the Bill, as at present framed, is extremely badly drawn—an imperfection which will certainly hamper us in assisting the Government in putting it into respectable shape. Subject to that, Your Excellency, I have nothing further to say, except this remark with reference to the inclusion in the schedule of the Bill of the Kannivádi zamíndári in which I am most interested, and a reference to which has already been made by my Honourable friend Mr. Ratnasabhapati Pillai. The position with regard to that is as follows. It will be within the recollection of

Government that a confidential circular was sent round to the Collectors of various districts and to owners of various estates and amongst these persons was the Commercial Bank of India which is the registered proprietor of this particular zamindari in the Madura district—

His Excellency the PRESIDENT :—May I interrupt the Honourable Member and say that his opportunity for speaking on this subject will come when the Bill is taken into consideration. But I may at once inform him that we propose to accept his suggestion that the Kannivádi zamíndári should be omitted from the schedule.

The Hon'ble Mr. EARDLEY NORTON :—That being so, Your Excellency, I have nothing more to say.

1-20 P.M.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—Your Excellency, I have no desire to take up the time of the Council by making any speech because, considering the particular course that has now been found necessary to adopt, I think detailed comments are unnecessary at this stage. I think we have another opportunity to do so when a new Bill will be introduced which will become a permanent Act, when the principles of the Bill based, as it may be, upon legal decisions or customary law or political expediency, will be taken into full consideration. For the present, I need only express my full concurrence in the main object of this measure, namely, to make estates impartible and inalienable except under certain restrictions and conditions. As to the detailed provisions contained in this Bill, even they do not seem to require any consideration at present, because, as your Excellency expressed, this is only a tentative measure to remain in force only for a short time and after a time it will be revised or if it is not revised the *status quo* will be revived. Only one remark I wish to make with reference to sections 3 and 4 which contain provisions about the powers of the alienation and restriction. According to my present ideas, I consider that the scope of restrictions as contained in section 3 is neither suitable nor is the manner in which it is expressed all that could be desired. When we come to consider the new Bill that is proposed to be introduced, we shall have to consider, in all details, as to how far the restrictions on alienations that are proposed in this Bill would be good, and whether it is the proper form at all to express such restrictions with reference to the personal law of Hindus. All these will have to be taken into consideration at a later stage. I simply point them out here, so that if, at a later stage in the course of the day, I give my assent to the entire Bill, it will be understood that it is only with reference to the tentative measure and not with reference to any detailed provisions which will have to be considered in very great detail and elaborated. It is unnecessary, therefore, that I should make any further remarks, and it is enough to point out that the Bill is greatly defective. I do not think it is necessary to make any further remarks except to express my cordial approval of the general principles of the measure.

The motion was put to the Council and agreed to unanimously.

The Secretary then read the title of the Bill.

The Hon'ble Mr. J. THOMSON :—I have now to move under rule 70 of the rules for the conduct of business that rules 34 and 46 be suspended. Rule 34 requires six days' notice to the Secretary, etc. Our purpose is to take up this Bill at once and consider it, if we possibly can, at the present sitting. So far as I can see, there is no reason for delay. The purpose of the Bill is well known to the public and we may proceed to consider it as well as we can under the present circumstances.

The Hon'ble Mr. Eardley Norton having seconded the motion it was put to the Council and agreed to unanimously.

The Hon'ble Mr. J. THOMSON :—I have now to move that the Bill be taken into consideration.

The Hon'ble G. Srinivasa Rao Avargal seconded the motion.

The motion was put to the Council and agreed to unanimously.

The Hon'ble Mr. J. THOMSON :—With your Excellency's permission I propose to read the Bill line by line. I beg to move that the title and the preamble be passed over for the present until the whole Bill has been considered.

The Hon'ble C. Jambulingam Mudaliyar Avargal seconded the motion.

The motion was put to the Council and agreed to.

Section 1.

The Hon'ble Mr. J. THOMSON :—Clause (2) of section 1 is—

"It extends to the whole of the presidency of Madras and shall come into force on such date as the local Government may, by notification, direct."

It is proposed on behalf of Government to split it into two clauses, namely,—

"(2) It extends to the whole of the presidency of Madras.

(3) It shall come into force at once and shall continue in force until the first day of June 1903."

The Hon'ble G. Srinivasa Rao Avargal seconded the motion.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—I should like to know whether the words "at once" mean from the date of passing. If it is from the date of passing, does it mean from the date on which the Governor-General gives his assent? That is the point in doubt.

The Hon'ble Mr. G. S. FORBES:—Under the Madras General Clauses Act of 1891, if no time is mentioned as to when an Act is to come into force, it comes into force from the first publication of the assent of the Governor-General. If a time is named then the act comes into force from that time.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—Will it not be more to the point to say that it shall come into force from the second day of June 1902? If we leave it as it is, there may be a doubt as to when it comes into force, whether it is to be at once or when the Governor-General gives his consent. This would cause a great deal of inconvenience and for the purpose of avoiding that I am making this suggestion.

The Hon'ble Mr. J. THOMSON:—The Government is prepared to accept the proposed entry of the particular date when it shall come into force, namely, second day of June 1902. Sub-section (3) will then run thus: It shall come into force on the second day of June 1902, and shall continue in force until the first day of June 1903.

This was put to the Council and agreed to.

The Hon'ble Mr. J. THOMSON:—I beg to move that section 1 as amended stand part of the Bill.

The motion was put to the Council and agreed to.

Section 2.

The Hon'ble Mr. J. THOMSON:—Section 2 runs as follows:—

"The estates included in the schedule hereto annexed shall be deemed to be impartible. In the case of any Hindu estate not included in the schedule if it be hereafter judicially declared that such estate is impartible, such estate shall thereupon be deemed to have been included in the schedule."

I propose that this section stand part of the Bill. There is no proposal to alter the section in any way.

The Hon'ble P. Ratnasabhapati Pillai Avargal seconded the motion.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—I beg to propose that the words "In the case of any Hindu estate not included in the schedule" occurring in the second sentence be omitted. My reason is, from what the Honourable Mover of the Bill says, it is clear that, within the period during which this Act shall be in operation, no suits or legal processes shall be taken and no partibility shall be decreed by a court. If such is the intention, the second sentence is absolutely out of

place, because during this time no courts of justice could decree as to any estate being partible or impartible. That being the case the words that I have quoted are out of place in a tentative measure. No doubt in the permanent Act it would be very necessary.

I beg to withdraw my remarks as I have not noticed the words "not included in the schedule". I now beg to move for the omission of the word "Hindu" in this section. I do not see why the word should be retained, as if there are no Christian or Muhammadan zamindars. I do not see the necessity for making any reference to a particular community or to the personal law of any community. We might say "in the case of any estate, etc."

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—I have just to point out the complications that would arise if the Hon'ble Mr. Jambulingam Mudaliyar's suggestion is adopted, because we have in section 3: "If the estate were ancestral property and the proprietor occupied the position of managing member of a joint Hindu family governed by the ordinary law of succession".

That, of course, clearly points out that the estates contemplated to be dealt with by this Bill are those belonging to a Hindu family. I do not see how we could get over that difficulty if in section 2 the word "Hindu" is omitted. Section 3 contemplates that in regard to questions of alienation the same principles as apply to managing members of Hindu families should apply to proprietors of estates, and these principles cannot be applied to Christian or Muhammadan zamindars. This is what occurred to me when I read section 3.

His Excellency the PRESIDENT:—Would not the Honourable Member's suggestion raise the whole thorny question of religious disabilities. I think it is too big a question for us to embark upon now.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—I should just like to make a few observations in reply to what the Hon'ble Mr. Ratnasabhapati Pillai said. In the comments that I made just now in the introductory speech, one portion of my objection had reference to section 3 which defines restrictions and alienations by reference to the personal law of Hindus. If a restriction should be placed at all, and if you approve such restriction, the scope of such restriction must be fully dealt with in the Act itself, instead of making a special reference to some personal law of a community and asking the courts to guide themselves by the course as laid down by that personal law. This is not the proper stage, nor have I the intention to deal with this particular portion of section 3, because the question involved in it is a very large one, which should be dealt with, with great deliberation, when the new Bill comes into force. But the existence of this provision in section 3 "the managing member of joint Hindu family" does not in any way necessitate the retention of the word "Hindu" in section 2. The existence of the word "Hindu" postulates that there is no other zamindari, or it means that we are specially anxious about Hindu zamindaris and not other zamindaris which, in the public interests, ought to be impartible. Therefore, the existence of the word "Hindu" in section 2 restricts the operation of that section and gives an impression to the public that we are anxious to legislate only for Hindus and not for other communities. The phrase "joint Hindu family" in section 3 does not by any means create inconvenience, because, instead of independently describing the restrictions on alienation in the Act itself, we make special reference to a law affecting a special community so that all the alienations will be governed by what is laid down in that particular law, which we have not fully described in this Act for some reason or other and which, for the sake of brevity, we have referred to as the law obtaining in a certain community. But this reference to the law applicable to the managers of joint Hindu families does not, by any means, necessitate that the Act with reference to impartibility or inalienability must necessarily apply only to Hindus. Estates might be possessed by other persons. There are estates possessed by Muhammadans and Christians. I have not had full information on the details of the schedule so as to know to whom the various estates belong. I have no doubt that there are Muhammadan zamindars, and if we consider that the estates are of sufficient importance to be preserved in public interests, they should be made impartible and inalienable. If there are certain Muhammadan or Christian estates, which should be impartible in public interests, then the word

1-45 P.M.

"Hindu" is out of place. So far as our present purpose is concerned, we have described briefly the restriction on alienation by making a reference to the joint Hindu family system; but later on, we have to describe it independently on its own basis stating that such and such are the principles which ought to govern alienations. For the present, section 3 may stand as it is to show how far alienations are permitted, and, when asked what the extent of the alienation is, we say the extent to which the manager of a joint Hindu family can alienate. We should later on lay down the principles which should govern alienations on an independent basis, without reference to any religion or the personal law of any particular community. The existence of the word "Hindu" is invidious and ought not to find place in section 2, because our object is to legislate for all communities. The chief points we have in view are the importance of the estate and the extent of public good that will be derived by putting restrictions on alienations and not whether the estates belong to Muhammadans or Christians. The retention of the word "Hindu" will give rise to a great deal of criticism.

The Hon'ble Mr. J. THOMSON:—I am prepared to accept its omission.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—If the Hon'ble Mr. Jambulingam Mudaliyar desires to place the alienations by Christian and Muhammadan zamindars on the same footing as those by Hindu zamindars, then he wants them to be governed by Hindu law. If I understand him rightly, he says that such alienations should be on the same footing as alienations by managers of joint Hindu families.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—There are certain restrictions which we describe, for brevity's sake, by saying according to Hindu law. That description is itself incongruous, and as we have had no sufficient time to elaborate it, without reference to a particular community, the section is drafted as it is.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—Let us suppose that a Muhammadan zamindar alienates his estate: how is that alienation to be adjudicated upon by courts? Is it with reference to Hindu law or with reference to Muhammadan law by which he is governed? That is the difficulty that occurs to me. I should be glad to know how alienations by Muhammadans or Christian zamindars are to be adjudicated upon by courts.

The Hon'ble Mr. EARDLEY NORTON:—The Hon'ble Mr. Ratnasabhapati Pillai is in error, because he contemplates cases which do not fall within the provisions of this Bill. In the case of a Muhammadan zamindar, his estate could not fall within this Bill, unless a court of law declares it to be impartible, because it is not included in the schedule.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—Then the Bill only applies to Hindu estates, and I am informed that all the estates mentioned in the schedule belong to the Hindus. If that is so, why not say so?

The amendment was put to the Council and agreed to.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—In respect of this very section, I have to move the addition of the following proviso: "Provided that the local Government may, by a notification in the *Fort St. George Gazette*, include such other estates as they may consider it desirable so to include". It may be that the Government may find to-morrow or the next month that some estates which are impartible have, through an oversight or an accident, been omitted from the schedule and, therefore, there ought to be a proviso for remedying that defect. I think, therefore, that a provision like the one I have suggested empowering Government to include other estates in the schedule is necessary.

His Excellency the PRESIDENT:—The Honourable Member is proposing to entrust us with arbitrary powers.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—A long and elaborate schedule has been attached to the Bill, and it is natural that mistakes might have been committed through oversight. There is no reason why the proprietors of estates which have been omitted to be included in the schedule by the mere accident should not have the benefit of this Bill.

The Hon'ble G. Srinivasa Rao Avargal seconded the amendment.

The Hon'ble Mr. A. J. YORKE:—I beg to point out that these are exactly the arbitrary powers that we very much objected to in the case of the Madras Court of Wards Bill. I should very much oppose this proposal.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—I submit that this measure is a tentative measure lasting only for a period of twelve months. When the permanent Bill is going to be considered, even the schedule will have to be considered with reference to facts which might be placed before the select committee. It is, therefore, unnecessary to provide for this additional power now, seeing that another Bill will be brought forward very soon and all these questions will have to be closely considered.

The Hon'ble Mr. J. THOMSON:—I may say at once that the Government is perfectly satisfied with the number of estates included in the schedule and is not anxious to have extended powers. The schedule has been considered fully and for a long enough time, and every estate that could be included has been included.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—As to Government having arbitrary powers, I may just remark that the whole of the schedule attached hereto is the result of the Government's arbitrary powers. This Council has not been investigating what estates should be included and what not. As regards the Hon'ble Mr. Jambulingam Mudaliyar's observation that it is only a temporary measure, I do not see why, even though this be a temporary measure, people should be deprived of the benefit of this measure, simply because an estate has been omitted through an oversight or by mistake.

The amendment was put to the Council and lost.

The Hon'ble Mr. EARDLEY NORTON:—Before Your Excellency puts this section to the vote, I have an amendment to suggest. This section, it appears to me, puts an end to all litigation which at present may be pending *boná fide* with reference to estates included in this schedule. If that be so, I desire to move an amendment the effect of which will be to exempt from the operation of the section all estates in reference to which litigation is now pending in the civil courts. I should like to give my assurance to my honourable colleagues that I hold no brief in any one of these cases and, therefore, I am not speaking with any personal emphasis on the matter. The words of the section, as they stand, make for retrospective legislation, and they propose, even if it only be for a period of twelve months, to suspend litigation which has already been commenced, which has cost a large sum of money and which, I presume,—I am not speaking with any personal knowledge—has been launched *boná fide*; they propose to put an end to or to suspend, for twelve months, all claims launched in law courts which may, hereafter, at the end of the litigation, be found to have been properly advanced. That is an extremely serious position and one which cannot be supported except for the most pressing and solemn reasons of public necessity of which there is no pretence in anything that has fallen in to-day's debate. Some of the cases to which I make reference are cases of peculiar hardship. Some of them are cases that go back nine or ten years. It is not only with reference to the exceptional hardship of these cases that I make this amendment, but on the question of principle as well. The principle I advocate is that, except for strong and sufficient reasons, no legislation ought to be retrospective. I think that the rights which have already been launched before the courts should be respected, unless there is reason to think that they have been launched for improper motives or launched for reasons which, honestly and *boná fide*, are not believed to exist. And the *onus* of establishing this state of things lies heavy on those who assert its existence. Amongst the cases that are now before courts, there is the case of the Turaiyúr zamíndári which has been decided and which is now in appeal before the High Court. This case was launched in 1898. That, therefore, is a litigation which is four years old and it cannot be said, within the meaning of the Statement of Objects and Reasons which was attached to the Suspensory Bill, to be a suit for partition made for the purpose of defeating or evading the provisions of this Bill. That particular zamindari stands absolutely clear of all attempts to evade the intention of this Bill. I may also point out that the provisions of the Suspensory Bill themselves nowhere provide for retrospective legislation. If that Bill had not been withdrawn, section 2 would only make alienations void which are made after the passing of this Act. That was in accordance with my view and that was, in my opinion, a desirable legislation—that we should respect suits already launched, should respect the money, energy and

labour bestowed upon suits already launched and limit our legislation to suits that may be instituted after the passing of this particular Act. Your Excellency, in addition to the Turaiyúr case, there is another case, namely, the Nidadavólu case. That is a suit in which the evidence on both sides has been taken and it is set down for argument and decision in June or July. That is a suit that was launched in 1899. There is the case again of the Venkatagiri zamíndári which is a very curious case in some respects. Although the case was launched in 1901, it endeavours to rip up litigation of, I think, about eight or ten years ago, on the ground that that litigation was the result of fraud. It is a serious thing, if it is true—I do not know if it is true—that the anterior litigation was brought to a conclusion by fraud, and corruption, and I do suggest that it is a very strong measure to say to the persons who may or may not be entitled to a division of the zamindari that they shall not expose and undo the unrighteousness of a former decision corruptly secured and assert their rights to properties which, if their case be true, they were entitled to reduce into possession ten years before the present Bill was dreamed of. Then there is the suit of the Múnagala zamíndári which is a suit launched in 1893 and which is therefore nine years old. It was brought up to the High Court and was sent back by the High Court on remand. It seems to me a serious thing to say to men who have been *boná fide* litigating their claims long before anybody suspected the possibility of the Impartible Estates Bill "You shall not have the benefit of judicial decisions upon the claims which have been launched, and upon which you have spent your activity, your substance, and your time." Then there is the Punganúru case which was launched in 1901. That is probably the most recent of the lot. In that case the issues have not yet been settled. There is the Udaiyárpálaiyam case from Trichinopoly which is actually pending before the Privy Council. This is a suit of 1897 and it is a case in which persons may well say "we have *boná fide* litigated our claims till the last tribunal and we are entitled to have our claims respected." I think there are two more cases—the case of the Sangamvalasa zamíndári in the Vizagapatam district which was launched in 1900 and the case of the Kangundi zamíndári in the Gódávari district in which issues have been framed and which was filed in 1900. With regard to these estates I should like to ask the Council whether it is desirable, fair and just to these persons to say that their claims which are, I presume, *boná fide* launched before civil courts should be suspended even for the period of twelve months which this Bill proposes? With regard to some of these estates, I

2-5 P.M.

think we may take it as pretty certain that within the twelve months they will not have proceeded to a final decision. If the words stand as they are now, it is quite clear that all this litigation will be suspended, and the question of the impartibility of various estates will be withdrawn from the purview of the judges before whom these cases are now pending. It is not in the interests of these men themselves, most of whom I know not and none of whom I am in touch with, but in the interests of the general principle, that, except for strong and urgent reasons, no legislation should be retrospective, that I move this amendment. Considering that in some of these cases large sums of money have been spent in vindication of asserted rights, that legal gentlemen have been retained and heavily feed, I ask whether there ought not to be an amendment of the kind that I am suggesting. I beg to move that after the word "annexed" in section 2, be inserted the words "other than those which on the second day of June 1902 are the subject-matter of litigation in civil courts".

The Hon'ble Mr. A. J. Yorke seconded this amendment.

The Hon'ble Mr. G. T. Mackenzie :—The effect of the introduction of these words is to exclude these estates from the operation of this Bill.

The Hon'ble Mr. Eardley Norton :—Not if they are declared to be impartible.

The Hon'ble Mr. G. T. Mackenzie :—I think it is better done by a proviso at the end of the Bill.

The Hon'ble C. Jambulingam Mudaliyar Avargal :—I regret that I have to take sides against the Hon'ble Mr. Eardley Norton. My honourable and learned friend bases his amendment on the ground of hardship caused to persons who have already gone to court and spent large sums of money, and also on the ground that this will be retrospective legislation affecting the people very injuriously and that, unless there were strong and urgent reasons, such a step ought not to be taken. No

doubt, at first sight, it appears hard that persons who have gone into court and spent large sums of money to vindicate their rights should be stopped suddenly by the enactment which is to be passed to-day and which has the appearance of retrospective legislation. But if you look into the subject a little deeper, it will appear that the Bill, if enacted, is not retrospective. It is only an accident that certain persons have gone into court to ascertain their rights prior to this day. But there may be numerous other persons whose cause of action might have arisen and whose rights might have been within the period of limitation but who, for one reason or another, have not gone into courts. By adopting this amendment we will be creating a most invidious and unreasonable distinction between the two sets of people—people who have had money and gone into court, and people who have equal rights but who have not yet gone into court. No doubt, persons who have gone into court have gone a step further. Persons who have not gone into court and whose causes of action are still in force may go into court to-morrow. What reason is there for making a distinction between these two sets of people. As for the question of hardship, no doubt every legislation causes some hardship. But the question we have to consider is whether it causes a large amount of injury to the detriment of public interests or whether, for the protection of public interests, a few people must not suffer. It is only the balance of convenience that we have to consider and the question of hardship, by itself, has no particular bearing in the consideration of this matter. It is a question of principle whether there is any justification in preventing people who have got rights and who have got causes of action still living from proceeding to court and ascertaining them because we pass this on the 2nd of June, and in allowing people who have, by a mere accident, filed their suits yesterday or the day before yesterday or for the matter of that some time ago to continue their litigation. If there is reason to prevent people from going to court to-morrow, there is equal reason for preventing people from continuing their action in courts. From all that we have heard from Government, there are strong and urgent reasons that have necessitated the introduction of this Bill. Those urgent reasons have been explained in great detail in the remarks of the Honourable Mover of the Bill, and it is not necessary for me to reiterate them. In the estates enumerated by the Hon'ble Mr. Eardley Norton, he has mentioned the estates of Venkatagiri and Nidadavólu. I am not in possession of the details, but I do believe that, if any estates are worth preserving from dismemberment, it is these two estates. Venkatagiri is one of the first-class estates in the presidency, and if there is any reason for preserving these estates intact, it is that estate that must come in first for protection. Simply because one of the brothers of the Raja of Venkatagiri has gone in for a suit and that suit is pending, that is no reason for allowing him to proceed with that suit. There is another inconvenience which has to be considered. Only one man has gone into court as the plaintiff—I refer to the Venkatagiri case—but there are other persons who are equally entitled with the present plaintiff to a share in the estate. Supposing the present suit is allowed to continue and the plaintiff gets a decree in his favour and gets his share of the property, what will happen to the other brothers. In the meantime, this Bill or the permanent Bill is passed into law. What is the position of the other members of the family, who have not been anxious to go into court so soon? Are they to be only maintenance receivers, while one of the brothers who has gone into court has got his share parcelled out? That is an extremely anomalous position to which the other members will be reduced if you allow the suit to continue. It must be remembered that this Bill is only a tentative measure and if, at the end of twelve months, it is found that any particular estates should be removed from the schedule, the Council will be at full liberty to do so; then the cases in connection with them will proceed and will be disposed of on their merits. It is unnecessary now to remove any estate from the schedule, merely on the ground that some person has gone into court. The question has been raised as to the vast amount of money spent on litigation already launched. That is a point of hardship which has to be considered. If any of these estates is to be permanently retained in the schedule, the question of the money spent will have to be taken into consideration by this Council, and adequate provision will have to be made to reimburse these people who have loss. That is a matter which will have to be considered later on. I have no doubt whatever that this Honourable Council will consider the justice of the cases that may be put forward before them and make an adequate legal provision, whereby persons affected by this Bill may be reimbursed for the money they had spent in litigation. There is absolutely no ground for departing from the principles which we have adopted for

preventing this litigation, and I am therefore strongly of opinion that this amendment should not be carried and we should not exclude from the schedule estates, which have gone into court and in regard to which no decrees have yet been obtained.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—I have also to oppose the amendment proposed by the Hon'ble Mr. Eardley Norton. It covers two classes of suits. One is the class of cases in which courts have adjudicated upon claims and given a decree for partition. The second is the class of suits which are simply pending in the original courts and no decrees have been passed. In cases in which the original courts have passed decrees for partition, it may be a question as to whether the appellate court or the Privy Council will be justified in looking to an enactment which was not in existence at the time of adjudication in the original court and which came into existence long after the original courts had passed the decrees. It may be a question whether the Privy Council or the High Court will have the right to adjudicate upon claims with reference to a law which had not come into existence till long after the suits had been disposed by original courts. That is a question on which there may be an honest difference of opinion. The moment the court of original jurisdiction gives a decree to the plaintiff for partition, he acquires vested rights by means of that decree to a certain specified share in the estates, and it might be that other laws are enacted subsequently, in which case it is not competent for the High Court or the Privy Council to look into the law which was not in existence at the time the suit was decided and proceed to adjudicate upon the claims in appeal with reference to that law. The appellate court—either the High Court or the Privy Council—will have to dispose of the appeal with reference to the merits of the case independent of any law which has been since brought into existence. As regards the second class of suits in which

2-20 P.M.

persons have gone into courts and which are pending in the courts of original jurisdiction, I think such suits ought surely to be governed by the present Bill which is to become law. The mere fact that, by an accident, persons alleging claims to partition have gone into court ought not to place them in a position of greater advantage than those who have not gone into court. There is no reason why an invidious distinction should be drawn between those who had gone into court and others who have not gone into court. The amendment which the Hon'ble Mr. Eardley Norton moves is exactly in consonance with the attitude he adopted when he opposed the whole Bill. In that view, he is right in trying to save as many estates as possible from the operation of this Bill.

The Hon'ble Mr. J. Thomson:—When I was listening to the Hon'ble Mr. Eardley Norton I was in doubt whether he correctly understood what Your Excellency said with regard to the trouble we have had about the procedure to be adopted with reference to this Bill. We have not had sufficient time for fully considering its form, and Your Excellency explained how we have had to alter the agenda by dispensing with the Suspensory Bill and proceeding to the consideration of the main Bill. After considerable outcry on the part of the people themselves and after our full consent, it was determined that whatever legislation was decided upon should be made applicable to suits in progress. It has been very well expressed by the Hon'ble Mr. Jambulingam Mudaliyar and the Hon'ble Mr. Ratnasabhapati Pillai that there is no difference in principle between suits already brought and suits to be brought, because rights of action had already accrued in both. An impartible estate which is already the subject-matter of litigation is as much entitled to statutory protection as an estate which might hereafter be brought under litigation. As I said in introducing the measure, the legislation must have some starting point. If it is good legislation, the sooner it comes into existence and the more field it covers the better it is. This legislation has not been sprung upon the community; it has been in incubation for several years, and I do not think any harm can be said to have been done to parties who have spent large sums of money for the purpose of securing partition, inasmuch as they knew perfectly well that in entering into such litigation they entered into it with their eyes open. The Government must therefore reject the amendment.

The Hon'ble Mr. Eardley Norton:—In answer to the Honourable Mover of the Bill I desire to say that I cannot understand how it can be suggested with reference to a case now pending before the Privy Council—a case of 1897—that it was a suit "launched for the purpose of evading the provisions" of this Bill.

The Hon'ble Mr. J. THOMSON :—Is not the Honourable Member quoting from the Suspensory Bill?

The Hon'ble Mr. EARDLEY NORTON :—Yes.

The Hon'ble Mr. J. THOMSON :—That is not before us.

The Hon'ble Mr. EARDLEY NORTON :—No, it is not. But I am entitled to use against the friends of this Bill the arguments which they themselves embodied in the Suspensory Bill a measure which, but for the accident of the hour, as explained by His Excellency, we should all be now engaged in discussing. The Supensory Bill expressly limited the operation of the Bill to alienations made after the passing of the Bill, thereby saving all anterior litigation. I quite admit that, if my amendment is passed, it would, no doubt, have the effect of placing outside the operation of this Bill, for a period of twelve months, the estates whose names I have mentioned, and with reference to which litigation is pending. But, if, at the end of those twelve months, the courts should decide that they are impartible, then in the Bill which is to follow you will re-include them. If, on the other hand, the lower court should decide that these estates or a majority of them or some of them are partible, then it seems to me that there is much to be said in favour of those persons who have been anxious to assert their rights and who have been careful enough and quick enough to take advantage of law courts before any legislation was brought forward. The Hon'ble Mr. Jambulingam Mudaliyar thought it an invidious distinction——

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal (interrupting):—Not I.

The Hon'ble Mr. EARDLEY NORTON :—Well, if not that learned friend, then at any rate one of my other learned friends on that side of the table said so. What is there invidious in the case of two brothers, one of whom wants the estate and the other does not? I cannot understand the application of the word "invidious" to the case, say, of one out of two or three brothers who desires to have his share of the property. The Hon'ble Mr. Jambulingam Mudaliyar asked what will be the position of the other brother who does not come forward? The answer is he did nothing and he will get nothing. That will be his position. If he does nothing, he deserves nothing, and if he deserves nothing he will be content to repose in the virtue of his inaction. If he does not come forward it means that he does not want the estate; and if he does not want the estate, why do you specially shower upon him any amount of friend's sympathy, to the disadvantage of the brother who wants his share and takes active steps to secure that share? Reference has been made by the Hon'ble Mr. Jambulingam Mudaliyar as against my amendment to what he described as a possible "fluke" by which a litigant might win a decision in favour of the partibility of his property. That is a somewhat light-hearted and contemptuous way of speaking of the learned majesty of the Privy Council and I tremble at the reference to it. These suits all eventually go to the Privy Council, and if their Lordships of the Privy Council decide after careful argument and elaborate contest that these estates are partible and that the various plaintiffs are entitled to their share, it is no answer to my amendment to say that those persons who have got their share have got it by a fluke. I admit that if this Bill is to be defended on the broad question of policy, and if the Government take that stand, it is difficult for one in my position to assail it. Broad questions of policy invite broad arguments, and seeing that I am apparently in a minority of one on the question of that policy, it is not worth my while to waste your time and my own in any attack upon the principles on which that policy is based. I have therefore declined to divide against the Bill. I claim for the amendment which I am moving a similar latitude and reception. It is a question of wide public policy that legislation should not, save for good cause shown, be retrospective. I maintain that is a well-known and a well-respected doctrine, and the principle of law is to give help and accommodation to those persons who have been jealous of their right to look to the law for redress before any legislation comes in to interfere with that right. That seems to me a matter of principle. After the declaration made by the Hon'ble Mr. Thomson that the Government must reject the amendment, my amendment must of course be lost. But I shall have the consolation of the knowledge that I have combated what seems in my eyes an unnecessary and unjust attack on vested rights.

The amendment was put to the Council and lost.

The Hon'ble Mr. EARDLEY NORTON:—Will the Honourable Mover of the Bill object to the omission of the words "deemed to be"? As a matter of drafting "shall be impartible" is better than "shall be deemed to be impartible". The words "deemed to be" are unnecessary.

The Hon'ble Mr. J. THOMSON:—I do not think that there is any necessity for changing the wording of this section. The one is as much a legal phraseology as the other. I now beg to move that section 2 as amended stand part of the Bill.

2–30 P.M. The motion was put to the Council and agreed to.

3–25 P.M. At this stage the Council adjourned and reassembled at 3–25 P.M.

Section 3.

The Hon'ble Mr. J. THOMSON: Section 3 runs as follows:—

"Notwithstanding anything contained in section 8 of the Madras Permanent Settlement Regulation, 1802, the proprietor of every such estate shall be restricted from alienating his estate or any portion thereof except in circumstances where alienation would be permissible by law if the estate were ancestral property and the proprietor occupied the position of managing member of a joint Hindu family governed by the ordinary law of succession, and no decrees for debts contracted after the passing of the Madras Impartible Estates Suspensory Act, 1902, by such proprietor otherwise than under the circumstances aforesaid shall be executed against his scheduled estate.

Explanation.—For the purposes of this section, alienation shall include temporary transfers such as mortgages and leases."

I would deprecate argument on the form of this particular section for the reason that the Hon'ble Mr. Jambulingam Mudaliyar has already advanced. The section has been passed by the Government of India and it has been drafted in this particular form, and if you are to alter it in any manner we are likely to come to grief. I, therefore, trust that Honourable Members will accept the section as it stands. I beg now to propose that in this section the words "The Madras Impartible Estates Suspensory Act, 1902" be omitted and in the place of these words be inserted the words "this Act,".

The amendment was put to the Council and agreed to.

The Hon'ble Mr. J. THOMSON:—I beg to move that section 3 as amended stand part of the Bill.

The Hon'ble G. Srinivasa Rao Avargal seconded the motion.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal:—After what the Hon'ble Mr. Thomson has said I have no desire whatever to move any amendments or to make any suggestions with reference to section 3 on the present occasion, because I consider that this is the most important section in the whole Bill and requires very careful recasting. For the present we must leave it as it is and we must wait for a proper opportunity to consider the various powers of alienation that must be embodied in this Bill. Only one or two words I will say with reference to this particular section. I have absolutely no hesitation in saying that the volume of litigation on the basis of the section will be simply quadrupled if it is permanently to remain the law of the country. Our aim is, as far as possible, to minimise vexatious litigation. In that view we have to be careful in considering the nature of the restrictions which we should impose and the manner in which we should express them. When the matter comes up for consideration, I have no doubt that this Honourable Council will bestow upon it careful consideration.

The motion was put to the Council and agreed to.

Section 4.

The Hon'ble Mr. J. THOMSON:—Section 4 runs as follows:—

"This Act shall not apply to—

(*a*) portions of estates included in the said schedule which have, before the coming into force of the Madras Impartible Estates Suspensory Act, 1902, been permanently transferred from the registered proprietors either by court-sale or by voluntary alienation, or

(*b*) portions of such estates which may be permanently alienated or transferred in future in the exercise of the restricted powers recognised in section 3, or

(*c*) portions of such estates which may be permanently transferred from the registered proprietors in execution of decrees for debts incurred before the coming into force of the Madras Impartible Estates Suspensory Act, 1902."

I beg to move that for the words "The Madras Impartible Estates Suspensory Act, 1902," occurring in clauses (*a*) and (*c*) of the section be substituted the words "this Act".

The Hon'ble G. Srinivasa Rao Avargal seconded the amendment.

The amendment was put to the Council and agreed to.

The Hon'ble Mr. EARDLEY NORTON :—I think, Your Excellency, there ought to be an amendment to section 4 to this effect: "This Act shall not apply to estates or portions of estates," etc. There is no reason why we should not apply it to entire estates as well as to portions of estates which have been alienated.

The Hon'ble Mr. J. THOMSON :—If the estates have disappeared, they are not in existence. The whole of this section refers to portions of estates that have not been alienated.

The Hon'ble Mr. EARDLEY NORTON :—Sub-sections (*b*) and (*c*) refer to portions of estates which may be transferred in future. It may be that whole estates are transferred and not merely portions.

The Hon'ble Mr. M. HAMMICK :—If the whole estate passes away, it remains in the schedule as it is. If a portion only is alienated, then the two estates will have to appear under separate names and that will require special legislation. But if whole estates should be transferred from one proprietor to another, they still remain in the schedule.

The Hon'ble Mr. G. T. MACKENZIE :—What will the Government do if an estate has been sold village by village? I have known of a case in Coimbatore in which an estate which consisted of nine villages was sold village by village, so that no portion is left.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—As far as I understand, clauses (*b*) and (*c*) of the section refer to alienations of portions of estates for debts, etc., and not of the whole estates.

The Hon'ble Mr. G. S. FORBES :—The intention of the section is that, if only a portion of an estate is alienated, this Act shall not apply to such portion, which shall not be impressed with the condition of impartibility as long as the *corpus* remains. Of course, if the whole *corpus* is transferred, this Act does apply. I do not suppose that it matters much as to who the actual proprietors are.

The Hon'ble Mr. EARDLEY NORTON :—I beg to withdraw my amendment with the permission of the President.

His Excellency the PRESIDENT :—I did not understand that the Honourable Member had moved any amendment.

The Hon'ble Mr. G. L. ACWORTH :—I should like to ask whether it would be within the power of a zamindar to grant lands on long leases, say for 99 years, for mining rights or other purposes. I may say I do not ask it in my own interests but I do happen to know of people who are in negotiations with a zamindar for the purpose of developing his property, and they would rather like to know if it would be in the power of zamindar to grant leases for long terms.

The Hon'ble Mr. J. THOMSON :—There are no objections to it, under the law, if it can be proved that the alienation was for the benefit of the estate of which the alienor is in charge. I now beg to move that section 4 as amended stand part of the Bill.

The motion was put to the Council and agreed to.

Section 5.

3-45 P.M. The Hon'ble Mr. J. THOMSON :— Section 5 runs as follows :—

"The local Government, if of opinion that a scheduled estate is too heavily encumbered to be preserved as an impartible and inalienable estate, may, by notification, direct such estate to be excluded from the schedule and may similarly exclude any portion which it may be necessary to alienate in order to preserve the remainder."

I don't think that there is any necessity for interfering with this section as it is drafted. I beg therefore to propose that this section stand part of the Bill.

The motion was put to the Council and agreed to.

Section 6.

The Hon'ble Mr. J. THOMSON :—That is the end of the Bill as drafted. But to carry out the wishes of the Government of India, it is proposed to have certain other sections of the Bill. Section 6 which is a new section runs as follows :—

"Within the period during which this Act is in operation no suit in which the question of partibility is in issue shall be commenced or continued, and no civil court shall in any legal proceedings or suits now pending before it or which may be instituted during the operation of this Act, decree or order a partition of any of the estates named in the schedule :

"Provided that if any of the said estates are hereafter excluded from the schedule or if no provision is hereafter made for the further continuance or re-enactment of any or all of the provisions contained in this Act, such suits may be commenced or revived and all remedies may be exercised in respect of such estates as if this Act had not been passed."

This section reads as if it were complicated, but as a matter of fact the intention is to maintain the present position and to gain knowledge during the currency of this Act as to how it may affect the interests of an estate which we want to preserve. I move that this section stand part of the Bill.

The Hon'ble Mr. M. Hammick seconded the motion.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—If I am in order I would like to propose that for the words "legal proceedings or suits" be substituted the words "suits or legal proceedings other than suits". Legal proceedings refer to execution proceedings that come after suits. Suits go before legal proceedings. In the course of suits there may be petitions and various other things, which are included in the term "suits". When we speak of legal proceedings, they are meant to apply to things other than suits.

The Hon'ble Mr. J. THOMSON :—I am quite prepared to accept that amendment.

The amendment was put to the Council and agreed to.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—I have got an amendment to propose in regard to the proviso. I beg to propose that after the word "Act" be inserted the words "with or without amendments thereto". The object of my amendment is to provide for the future, in case we modify or change, in any form, the scope of any of the sections. Section 3 which we have tentatively passed would require a considerable modification in form and manner of expression and perhaps also in principle. There might be difficulties created and arguments advanced that this Act only provided for the re-enactment of any or all of the provisions contained in this Act, and not for any change of form or differentiation of principle. To guard against that argument, I propose to add the word "with or without amendments thereto".

The Hon'ble Mr. J. THOMSON :—This is only a general provision.

His Excellency the PRESIDENT :—It will be the same Act, whether it is altered, amended or revised or not.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—The form in which this proviso is put seems to postulate that we propose to re-enact this Act or any portion of it. To guard against any possible objection that may be raised against it, I move my amendment.

His Excellency the PRESIDENT :—It is a negative proviso. If it is a positive proviso, there might be some point in your amendment. Nothing is done by this proviso ; but if, on the other hand, something is done, then you might safeguard it.

The Hon'ble C. JAMBULINGAM MUDALIYAR Avargal :—I am not very particular about it. I thought that we might make our position completely elastic and safe.

The Hon'ble Mr. EARDLEY NORTON :—I beg to propose that in the proviso after the words "such suits" be inserted the words "or legal proceedings other than suits."

This amendment was agreed to without discussion.

The Hon'ble C. Jambulingam Mudaliyar Avargal:—In view of the amendments that have been carried I think the omission of the following words of the proviso is necessary "and all remedies may be exercised in respect of such estates."

The Hon'ble Mr. J. Thomson:—Quite so. We thought that we were under an obligation to introduce this provision about remedies under the orders of Government of India, but, after the amendment just adopted, I do not think that there is any necessity for the retention of these words.

The amendment to omit these words was put to the Council and accepted without discussion.

The section, as amended, was then put to the Council and agreed to.

Section 7.

The Hon'ble Mr. J. Thomson:—Section 7 runs as follows:

"In computing the period of limitation in suits or other legal proceedings falling within the purview of the proviso to the last preceding section, the time during which this Act remains in operation shall be excluded."

I now move that this section stand part of the Bill.

The Hon'ble Mr. Eardley Norton:—In consequence of the amendments carried in regard to the earlier sections, I beg to propose that the words "and legal proceedings other than suits" be substituted for "or other legal proceedings."

This amendment was accepted by the Council without discussion.

Section 7, as amended, was then put to the Council and agreed to.

The Schedule.

The Hon'ble Mr. J. Thomson:—With regard to the schedule, I beg to propose that the figures and words "5 Ârni jagir, 1 Bagalur-palaiyapattu, 8 Kannivádi" be omitted where they occur and the following names substituted for "Ventrapragadu", "Mirjapuram" and "Weyyur", namely, "Ventrapragada", "Mirzapuram" and "Vuyyur".

The estate of Kannivádi has been removed under the objection of the Hon'ble Mr. Eardley Norton and for general reasons. The Ârni jagir is a palaiyapat, a military fief and Bagalur is of the same nature and these should not have been included in the schedule. They are held under a tenure which is not the ancient zamindari tenure.

The Hon'ble C. Jambulingam Mudaliyar Avargal seconded the amendment.

The Hon'ble Mr. Eardley Norton:—Is it open to me to suggest that the schedule will have to be renumbered?

The Hon'ble Mr. M. Hammick:—That is done by the Secretary.

The amendment was put to the Council and agreed to.

The Hon'ble Mr. J. Thomson:—I now beg to move that the amended schedule be the schedule of the Bill.

The motion was put to the Council and agreed to.

The Hon'ble Mr. J. Thomson:—I beg to propose the adoption of clause (1) of section 1 which contains the short title of the Bill namely "This Act may be called the Madras Impartible Estates Act, 1902." The Hon'ble Mr. Ratnasabhapati Pillai suggested the inclusion of the word "inalienable" in the title of the Bill. I would say that the Bill, though shortly described, is sufficiently described by the present title, and move that this be the short title of the Bill: "This Act may be called the Madras Impartible Estates Act, 1902."

The motion was put to the Council and agreed to.

The Hon'ble Mr. J. Thomson:—I beg to move that this preamble be the preamble of the Bill:

"Whereas it is expedient to amend the law in regard to the impartibility and inalienability of certain estates; It is hereby enacted as follows:—"

The motion was put to the Council and agreed to.

The Hon'ble Mr. J. THOMSON:—With Your Excellency's permission I will now move "that the Bill as amended be passed into law at once." I do not think that the discussion that has taken place has shown that anything further is really required. The Hon'ble Mr. Ratnasabhapati Pillai wished to include other estates, but inasmuch as this is a purely temporary measure lasting only for a year and inasmuch as under the Bill, as it stands, we have a well defined class and certainly enough on our hands, there is no reason for us to concern ourselves with any estates which may have been excluded. I have to thank the members of the Council for the assistance they have given us in drafting this Bill and altogether for the ready acceptance that the measure has received at their hands. I believe it will be of use, and no harm can be done if it is not eventually passed as a permanent Act.

4-10 P.M.

The Hon'ble Mr. G. Stokes seconded the motion.

The motion was put to the Council and agreed to.

His Excellency the PRESIDENT:—Nothing remains for me to do except to explain that the rest of the agenda numbered 5 is rendered useless now. I have only, therefore, to declare this meeting dissolved.

H. A. STUART,
Ag. Secretary to Government.

MADRAS: PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

SECRETARIAT LIBRARY
24.1.1903
FORT ST. GEORGE

Proceedings of a Meeting of the Council of the Governor of Fort St. George, assembled for the purpose of making Laws and Regulations under the provisions of the Acts of Parliament, 24 and 25 Vic., cap. 67, and 55 and 56 Vic., cap. 14.

The Council met at the Council Chamber, Fort St. George, at 12 noon on Monday the 15th day of December 1902.

PRESENT:

His Excellency Baron AMPTHILL, G.C.I.E., Governor of Madras—*Presiding*.
The Hon'ble Mr. H. M. WINTERBOTHAM, C.S.I.
The Hon'ble Mr. J. THOMSON, C.S.I.
The Hon'ble Mr. EARDLEY NORTON.
The Hon'ble Mr. H. A. SIM, C.I.E.
The Hon'ble Mr. J. N. ATKINSON.
The Hon'ble P. RATNASABHAPATI PILLAI Avargal.
The Hon'ble K. PERRAJU PANTULU Garu.
The Hon'ble G. SRINIVASA RAO Avargal.
The Hon'ble Mr. G. H. STUART.
The Hon'ble Nawab SAIYID MUHAMMAD.
The Hon'ble Mr. G. L. ACWORTH.
The Hon'ble Mr. J. E. P. WALLIS, Advocate-General.
The Hon'ble Mr. F. A. NICHOLSON, C.I.E.
The Hon'ble Mr. G. S. FORBES.
The Hon'ble Lieut.-Colonel Sir G. M. J. MOORE, *Kt.*, C.I.E.
The Hon'ble Mr. G. STOKES.
The Hon'ble Mr. H. BRADLEY.
The Hon'ble R. V. SRINIVASA AIYAR Avargal, Diwan Bahadur.
The Hon'ble Sir G. G. ARBUTHNOT, *Kt.*

ADDITIONAL MEMBERS.

The Secretary reported that the following gentlemen took their seats as additional members of Council:—

The Hon'ble Mr. G. S. FORBES.
The Hon'ble Lieut.-Colonel Sir G. M. J. MOORE.
The Hon'ble Mr. G. STOKES.
The Hon'ble Mr. H. BRADLEY.
The Hon'ble R. V. SRINIVASA AIYAR.
The Hon'ble Sir G. G. ARBUTHNOT.

QUESTIONS AND ANSWERS.

His Excellency the PRESIDENT:—Honourable members may now ask the questions that stand in their name.

The Hon'ble K. PERRAJU PANTULU Garu:—

I. Will the Government be pleased to lay on the table copy of the letter from the Government of Madras to the Government of India, dated 18th February 1862, wherein they declared that "There can be no question that one fundamental principle of the ryotwari system is that the Government demand on the land is fixed for ever"?

The Hon'ble Mr. Forbes :—

I. The letter referred to was published as a parliamentary return in 1863 and is printed in Mr. R. C. Dutt's Book "Open Letter to Lord Curzon". The questions the letter deals with have been fully discussed in a proceedings of the Madras Board of Revenue, which will be found printed in full among the papers published on the Land Revenue Policy of the Indian Government sold in book form by Messrs. Higginbotham & Co. for ten annas. No useful purpose would, therefore, be served by placing a copy of the letter on the table.

The Hon'ble K. Perraju Pantulu Garu :—

II. (*a*) Is there not a class or *taram* in the settlement scheme known as the permanently-improved land?

(*b*) Does that *taram* imply that the assessment thereon was not liable to enhancement in future revisions; if not, what is the meaning and significance of that *taram*?

(*c*) How much land of that *taram* was there in the ryotwari assessed land in the districts of Kistna and Gódávari according to the previous settlement, and how much was classed under that head in the resettlement?

(*d*) Is that *taram* now existing in the Gódávari district; if not, why is it removed?

(*e*) In what class is the permanently-improved *taram* as per previous settlement put in the resettlement of the Gódávari district, and what are the reasons for so doing?

The Hon'ble Mr. Forbes :—

II. (*a*) In the early settlements there was a class known as *toṭṭakál* or dry land irrigated, assessed at specially high rates and called permanently improved land.

(*b*) No: the meaning and significance are as explained in the answer to clause (*a*) of the question.

(*c*) (*d*) & (*e*) At the former settlement 7,899 acres were classed as permanently improved land in Gódávari, and 4,803 acres in Kistna. At the resettlement no land was so classed in either district but all land was assessed at the ordinary wet or dry rates except the *lankas*.

The Hon'ble K. Perraju Pantulu Garu :—

III. (*a*) Will the Government be pleased to state whether any crop experiments were made by the Deputy Commissioner, the late Mr. Clerk, in view to the reclassification of the soils (wet and dry) of the upland taluqs of the Gódávari district, and, if so, will the Government be pleased to publish the same?

(*b*) Will the Government be pleased to state what percentage of enhancement of assessment will a reclassification of soils of the upland taluqs result in, apart from the Deputy Commissioner's "arbitrarily raising the grouping of 145 out of the 264 villages of the upland taluqs of the district" referred to in paragraph 58 of the proceedings of the Board of Revenue embodied in G.O., No. 436, Revenue, dated 7th July 1899?

(*c*) Having regard to the observation of the Board of Revenue in paragraph 48 of the said proceedings that "an all-round enhancement of one-third of the existing rates is as great as can be expediently exacted," and the untiring industry of the upland ryot to obtain the estimated yield and the frequent recurrence of adverse seasons, and having regard to the fact that the reclassification of soils in the delta tracts resulted in an average enhancement of 24 per cent., will the Government be pleased to limit the enhancement to a reasonable percentage not exceeding the 25 per cent. recommended by the Deputy Commissioner, even which is remarked upon by the Board of Revenue in paragraph 47 of the said proceedings as "evidently hampered by the enormous increase to which his proposed regrouping of the villages in many cases leads"?

(*d*) Have the Government investigated if there be any soils in the upland taluqs of the district that deteriorated since the first settlement and required relief from

the assessment now resolved upon by the Government to be superadded by an all-round enhancement of one-third of the same; if so, what provision was made as regards them?

(*e*) In view to assure the public on what defined conditions future revisions of assessment will be based and avoid the uncertainty detrimental to land improvement, will the Government be pleased to state, as regards soils of the upland taluqs, on which of the two methods future revisions will be made, viz., the reclassification of soils and the difference of prices, and will the Government be pleased to give the option to the land owners?

(*f*) Having regard to the proposal of the Board of Revenue in their resolution No. 43, dated 12th March 1896, "that in consideration of past assurances there should be no reclassification of soils in the upland taluqs, though such reclassification is otherwise highly desirable" and the reply given by the Government of India to the question put by Rai Bahadur P. Ananda Charlu at the meeting of the Supreme Legislative Council held on 25th February 1897, viz., that "the Secretary of State did not in any way express his disapproval of the previous declarations and pledges on the part of the Madras Government on the subject of land revenue in that presidency, since he did not discuss any such declarations or pledges and that no order was given by the Secretary of State to communicate to the Madras Government the despatch of 18th January 1885", will the Government be pleased to assure the public that future resettlements of ryotwari land of the upland taluqs will be made only with reference to prices, so that capital and labour may freely, and without any apprehension whatever, be employed for the permanent improvement of land which is now entirely dependent upon the vagaries of rainfall?

The Hon'ble Mr. Forbes :—

III. (*a*) No crop experiments were made as the resettlement took the form of a percentage enhancement.

(*b*) The upland taluqs not having been reclassified, it is not possible to answer this question.

(*c*) The Government consider that an enhancement of 33 per cent. was moderate in view of the fact that roughly speaking prices had doubled during the settlement-period.

(*d*) No such investigation was made as there was no reclassification of soil.

(*e*) & (*f*) The Government must decline to give the assurances asked for.

The Hon'ble K. Perraju Pantulu Garu :—

IV. (*a*) What is the present extent of land in the Kistna district transferred from tank-bed into ryotwari land and pattas issued therefor since the previous settlement?

(*b*) Is it a fact that any such land is now directed to be assessed as tank-bed with separate dry and wet rates; if so, will the Government be pleased to state the reasons which justified the alteration of the ryotwari tenure in respect of such land without the consent of the ryots?

(*c*) Have the Government realized any and what increase of revenue by the adoption of such course?

The Hon'ble Mr. Forbes :—

IV. (*a*) The Government have no statistics on the point.

(*b*) & (*c*) So far as the Government are aware there has been no alteration in the tenure of patta lands situated in the beds of tanks, nor are there any "separate dry and wet rates" for tank-beds. Existing orders provide that no assignment shall be newly made of tank-bed lands; and that, if the cultivation is objectionable of any such lands that have already been assigned on patta, the lands shall be acquired on payment of compensation. The orders further provide that tank-bed lands held on patta and classed as "wet" shall, at revision of settlement, or, if the holder consent, previously, be classed as "dry" and charged water-rate if and when they are irrigated. The object

of this instruction is to declare the ineligibility of such lands for remission of assessment in the event of the submersion, to which the nature of the lands makes them ordinarily subject.

The Hon'ble K. Perraju Pantulu Garu :—

V. (*a*) Did the Hon'ble Mr. Garstin (who was in charge of the Madras Proprietary Estates' Village Service Bill) make the following statement published at page 21, *Fort St. George Gazette*, Proceedings of the Legislative Council, dated 5th January 1894 :—

"Whether the Government will assess them at full assessment or at five-eighths is a matter for their consideration. The Act gives them power under section 17 to enfranchise inams under the rules for the time being in force in respect of the enfranchisement of village service inams in villages not permanently settled or under such rules as the Government may lay down in this behalf. I can only express the hope that the Government will treat the villages in proprietary estates in this matter with all the liberality which the circumstances will admit of, but I cannot possibly pledge them to any specific course of action, because in the course of a few days my official career will terminate."

(*b*) Will the Government be pleased to direct the enfranchisement of the inams in permanently-settled estates at the same rate of assessment sanctioned in respect of the village service inams in villages not permanently settled?

The Hon'ble Mr. Forbes :—

V. (*a*) Yes.

(*b*) The full assessment of the enfranchised service inams will yield nothing like the sum required to pay adequate money salaries to the necessary village servants and the deficiency has to be made good by the proprietor and the tenants under the provisions of sections 19 and 25 of the Act referred to. No good ground appears for favouring the holders of enfranchised inams at the expense of the proprietor and the estate ryots.

The Hon'ble K. Perraju Pantulu Garu :—

VI. In view of the fact that Government Orders and Revenue Board's Standing Orders affecting the landed interests of the ryotwari holders and inamdars and their liability to State demands are being passed without giving them an opportunity of representing their views beforehand, will the Government be pleased to direct the publication of such proposed or draft orders in the official Gazettes and lay down a rule to give sufficient time to the people concerned to represent their views before final orders are passed?

The Hon'ble Mr. Forbes :—

VI. Under present practice the public have generally an opportunity of expressing their views before important orders affecting landed interests are passed. Most enactments affecting such interests provide for the making of rules after previous publication : and in the case of purely executive orders the district officers are usually consulted, who in turn endeavour to ascertain the views of those interested in the matter under discussion. But the Government are unable to assent to the laying down of a hard-and-fast rule of the nature indicated.

The Hon'ble K. Perraju Pantulu Garu :—

VII. (*a*) Is it a fact that the Central Provinces Government are publishing monthly a vernacular agricultural gazette for the dissemination of useful agricultural information among the ryots and supplying the same for a small subscription?

(*b*) In view to serve a similar purpose in this presidency, will the Government be pleased to arrange the publication in vernacular of such agricultural gazette for the benefit of the agricultural community?

The Hon'ble Mr. Forbes :—

VII. (*a*) The Government have no information on the subject.

(*b*) The village sheet of the District Gazettes in this presidency is intended to contain any information on agricultural subjects likely to be useful to the ryots; and for many years information of this character has been so published. The Government have more than once drawn the attention of the Board of Revenue and the district officers to this means of disseminating agricultural news and encouraged its being more extensively used for the purpose.

The Hon'ble K. PERRAJU PANTULU Garu :—

VIII. (*a*) What is the value of enamelled ironware imported into Madras from Austria and Germany during the last three years?

(*b*) Having regard to the increasing demand for such articles of domestic use, will the Government be pleased to introduce the industry in Madras and open an institution to teach people here in the manufacture of such articles?

The Hon'ble Mr. Forbes :—

VIII. (*a*) The information desired is not available. Imports of enamelled ironware have heretofore been included under "Hardware, other sorts", but since October last under instructions from the Director-General of Statistics, they are being separately registered. The figures for the last two months are—

	RS.
Value of imports from Austria	12,548
Do. from Germany	5,215

(*b*) The question of introducing the manufacture of enamelled ironware into Madras will be considered, when the views of the Government of India on the proposals of the Industrial Schools Committee are received. The Government are not prepared at present to take any steps in the matter.

The Hon'ble K. PERRAJU PANTULU Garu :—

IX. (*a*) Is it a fact that in English factories a mechanical contrivance has recently been introduced and is now being used for the production of laced and embroidered cloths of the kind manufactured in Salem, and that if these factory-made cloths are introduced into the Indian markets it would seriously affect the living of so many as 50,000 weavers of Salem and other places?

(*b*) If there is no definite information on the subject, will the Government be pleased to enquire into the matter and take steps to open a school in Salem for teaching the weavers so that they may avail themselves of the machine aid as in English factories?

The Hon'ble Mr. Forbes :—

IX. The Government are aware that a loom has been patented of the nature referred to and there are probably many such patents. The information that Government have on the subject raises no apprehension that Salem manufactures will suffer in competition with the English products. There is therefore no reason for opening a school of the nature suggested in Salem.

The Hon'ble K. PERRAJU PANTULU Garu :—

X. (*a*) Having regard to the enormity of the disaster to the railway train at Mangapatnam, will the Government be pleased to appoint a committee of official and non-official gentlemen so that a searching enquiry may be made into the cause of and responsibility for the same and precautionary measures suggested to prevent recurrence in future of similar disasters as far as possible?

(*b*) In view to allay public anxiety owing to conflicting reports and varying expressions of opinion, will the Government be pleased to publish a full report of the disaster?

(c) Will the Government be pleased to furnish information as to—

(1) When the bridge at Mangapatuam was last inspected and reported upon and what was the report?

(2) Whether there were bridge-watchers at the time of the disaster, and if dispensed with when and why?

(3) Whether after the disaster passengers including people anxious to enquire after their relations were not allowed for some time to proceed in the train to Mangapatnam, and if so why?

(4) How many persons were in the ill-fated train at the time of the disaster and what was the number of the dead?

The Hon'ble Mr. Stokes:—

X. (a) A full enquiry has been made by the persons appointed by law to make such enquiry and the Government do not consider that any good purpose would be served by the appointment of a special committee to make another enquiry.

(b) The report on the disaster has been published.

(c) (1) The last regular annual inspection of the bridge was made on the 11th May 1902. No report was made as there was nothing calling for report.

(2) There were no bridge-watchers at the time of the disaster. Bridge-watchers are never employed on bridges of this kind.

(3) It is not true that after the disaster persons anxious to enquire after their relatives were not allowed for some time to proceed to Mangapatnam. Immediately after arrival at Mangapatnam the Traffic Manager wired to the stationmaster, Cuddapah, that any relations or friends were to be allowed to go on by the special train which was bringing the Government inspector of railways. The staff are positive that no one applied except the reporter of the *Madras Mail*. Some relatives were carried from Madras in the second break-down special. A searching enquiry has been made and not a single substantiated case has been brought to light.

(4) The number of persons in the wrecked train was 156. The number of bodies recovered is seventy-one. Besides these there are eight who have not been accounted for in any way and who are believed to have perished.

The Hon'ble K. Perraju Pantulu Garu:—

XI. (a) Is it a fact that in the year 1900–1901 the number of primary schools in the presidency fell from 20,075 to 19,483 and their strength from 598,704 to 583,197?

(b) Will the Government be pleased to state what this is due to, and what steps, if any, will be taken with a view to the extension of primary education in the presidency?

The Hon'ble Mr. Stokes:—

XI. (a) The question, as asked, contains inaccuracies of statement. The fall was in primary schools intended for boys and under public management.

(b) The Honourable Member is referred to the answer given to clause (a) of question VII at the meeting of the Council held on the 17th February 1902. For the extension of primary education the Government propose to establish a considerable number of model primary schools and, if possible, to pay grants in full to schools aided from provincial and local funds.

The Hon'ble K. Perraju Pantulu Garu:—

XII. (a) Is it a fact that there are veterinary dispensaries in most other provinces in India where 52,846 cattle were reported to have been treated during the year 1900–1901?

(b) Are there any, if so, how many, such dispensaries in this presidency?

(c) Will the Government be pleased to take steps to provide a sufficient number of dispensaries for similar treatment in this presidency?

The Hon'ble Mr. Forbes :—

XII. (a) Yes, these figures appear in a resolution of the Government of India, dated 16th November 1901, which was published in the *Gazette of India.*

(b) A veterinary hospital is attached to the Agricultural college, Saidapet, and a veterinary dispensary has recently been established at Trichinopoly by the Trichinopoly district board.

(c) The question as to how funds could be provided for such dispensaries has been long under discussion. Two years ago the Government decided to establish, as an experimental measure, a limited number of veterinary dispensaries, not exceeding six, at selected centres. The great difficulty experienced in obtaining qualified veterinary assistants for the charge of these institutions has however hitherto prevented the proposals being carried out. The subject is receiving the attention of the Board of Revenue and the Superintendent of the Civil Veterinary department.

The Hon'ble K. PERRAJU PANTULU Garu :—

XIII. In view of the fact, as stated in appendix I to the report of Veterinary-Major W. D. Gunn on the cattle mortality in this presidency during the quarter ending 31st March 1902 embodied in G.O., No. 591, Revenue, dated 10th July 1902, that the number of deaths from diseases among cattle in the Gódávari district was the largest in the presidency, viz., 2,576, and in view of the serious evil resulting in the decrease of the cattle wealth of the district as shown in the public statistics which I quote *, will the Government be now pleased to call for a report as to the existence, sufficiency and sanitary condition of the cattle-stands in the deltaic villages of the district and see them suitably provided for in this respect?

* Year.	Cattle including bulls, bullocks, bull and cow buffaloes.
1895-96	599,041
1896-97	580,314
1897-98	577,774
1898-99	577,774
1899-1900	564,355

The Hon'ble Mr. Forbes :—

XIII. The census of cattle is not taken with the same accuracy as the census of human beings. Of necessity the village officers must largely rely on the information given by the ryots, and for many reasons the ryots are prone to understate the true figures, or to give guesses at random. The statistics are thus extremely untrustworthy. It is highly improbable that there has been a real decrease in the number of cattle in the Gódávari delta. It is however the fact that for the quarter ending 31st March 1902 the number of deaths of cattle from disease, as reported, was highest in the Gódávari district. But the Government do not consider that any useful purpose would be served by calling for reports on the matter referred to by the Honourable Member. The Honourable Member is referred to the answer given to question No. XVIII put by him at the meeting of this Council on the 8th April last, which answer is fully applicable to the question under reply.

The Hon'ble K. PERRAJU PANTULU Garu :—

XIV. Is it a fact that Bengal and Bombay are provided with veterinary colleges sending up students for the final examination, as also Lahore and Rajputana with veterinary schools?

The Honb'le Mr. Forbes :—

XIV. It is so as regards Bengal, Bombay and Lahore; as to Rajputana the Government have no information.

The Hon'ble K. Perraju Pantulu Garu :—

XV. Having regard to the decrease in the cattle wealth of this presidency as shown in the public statistics which I quote,* will the Government be pleased to make in the next budget adequate provision for the imparting of veterinary instruction in this presidency for the benefit of its agricultural community?

* Year.		Bulls and bullocks.	Cows.	Bull-buffaloes	Cow-buffaloes.
1895-96	..	4,502,951	3,979,771	862,477	1,590,645
1896-97	..	4,404,070	3,840,183	850,928	1,558,895
1897-98	..	4,431,121	3,835,398	851,608	1,546,085
1898-99	..	4,431,121	3,835,398	851,608	1,546,085
1899-1900	..	4,411,350	3,853,408	846,679	1,560,104

The Hon'ble Mr. Forbes :—

XV. As explained in the answer to question XIII the figures from which the Honourable Member seeks to deduce the inference that there has been a diminution in the livestock of this presidency cannot be safely relied on. If the decrease is real it is amply accounted for by a succession of bad seasons for which no veterinary instruction can afford a remedy. There can be no doubt however that the cattle mortality from disease all over the presidency is considerable. In 1881 a veterinary department was organised to combat cattle disease and to afford the ryots veterinary instruction. The difficulties encountered and the small results achieved and the causes of failure are largely attributable to the attitude of the ryots who generally not only exhibited no desire to co-operate in adopting veterinary treatment, but offered passive or active obstruction to the efforts made to assist them. For some years consequently the local veterinary department has not attempted to do more than to collect information and statistics about cattle disease and to regulate the arrangements at cattle fairs. Recently however, as the Honourable Member has been informed in answer to question XII, it has been decided by the Government to make further attempts to popularize veterinary remedies and establish veterinary dispensaries: experiments with fair success have been carried out in prophylactic inoculation against rinderpest and anthrax; and a scheme is under preparation for opening veterinary classes for the training of the agency required for the charge of the dispensaries and for the more extensive employment of methods of inoculation. Such sums as may be required will be provided as soon as it is found practicable to frame and sanction definite proposals. For veterinary dispensaries a sum of Rs. 5,000 has been provided in the budget for the next year.

The Hon'ble K. Perraju Pantulu Garu :—

XVI. (*a*) Is it a fact that in fasli 1310 (1900–1901) the net increase in the extent of land sold for arrears of Government revenue and bought in by the Government amounted to 3,134 acres in Kistna, 1,224 acres in Anantapur, 752 acres in Madura, 710 acres in Cuddapah, 510 acres in North Arcot, and 683 acres in South Arcot?

(*b*) Having regard to the proposal of the Collector of North Arcot concurred in by the Board of Revenue in their resolution, No. 30, dated 28th February 1902, embodied in G.O., No. 485, Revenue, dated 3rd June 1902, to scrutinize the list of bought-in lands with the view to their restoration to their former owners in deserving cases, will the Government be pleased to instruct the Collectors of the aforesaid districts to do so as soon as possible and restore such land to the former owners?

The Hon'ble Mr. Forbes :—

XVI. (*a*) Yes: the figures are correctly quoted from the last land revenue settlement report which was reviewed and published by the Government.

(*b*) The Government cannot approve the suggestion that, as a general rule, land which has been sold for arrears of revenue and bought in for want of bidders should be restored to the person through whose default the land was brought to sale. Such a concession can only be made in very exceptional seasons and circumstances.

The Hon'ble K. PERRAJU PANTULU Garu :—

XVII. Will the Government be pleased to state, out of the 900,000 acres lying waste and assessed at an average of 3 annas per acre in Anantapur in the resettlement, how much land has since been occupied and, if a fairly good portion of the same be not occupied, will the Government be pleased to state why it was so?

The Hon'ble Mr. Forbes :—

XVII. In the Anantapur district the assessed ryotwari area was found at the last settlement to be 2,040,100 acres, of which the unoccupied area assessed as cultivable waste was 812,317 acres. Of this extent 801,264 acres were classed as "dry" with an average assessment per acre of As. 3-2 and the remainder as "wet". The settlement was completed in 1897-98; in this and the subsequent years the average area taken up on darkhast annually has been about 35,000 acres, but owing to unfavourable seasons the average area annually relinquished has been larger. The Government consider that the chief reason why a greater portion of the waste is not permanently occupied and cultivated is that the soil is rocky and rendered sterile by frequent and severe droughts.

The Hon'ble K. PERRAJU PANTULU Garu :—

XVIII. (*a*) With reference to the settlement report of South Canara recently laid at the disposal of the Press, will the Government be pleased to state what reasons induced them to abstain from resettling the district since the "Dhoro" settlement of 1819, if that settlement was understood to be liable to revision?

(*b*) When the Government ordered the resettlement of the district, were they aware of the following passages of Lord William Bentinck's Minute, dated 25th November 1806 :—

"When the circumstances were made known to me, I was astonished at the close resemblance between the actual state of property in Canara and the proposed permanency of the ryotwari settlement. Among other peculiarities, the greater part of the estates though fully assessed pay less than ten pagodas per annum to the Circar. I shall not enter into further details; I shall only state my satisfaction in finding theory reduced to practice, and speculation proved by the test of the most successful experiments. To what circumstances Canara owes the preservation of its original tenures handed down through many ages, I cannot at present say; but that they still exist is certain."

(*c*) Will the Government be pleased to state the reasons which justified their procedure of resettling the "wargs" or landed estates of South Canara and making them liable to periodical revisions?

(*d*) Was there any declaration published at the settlement of South Canara of 1819 as to the period during which it would be in force, and as to its liability to revision thereafter; if so, when and where was it published?

(*e*) With respect to the 14,643 acres of land as to which the present assessment is either in excess of, or equal to, the mulgeni rent, is it a fact that the present assessment leads to the destruction of the property of wargdars inasmuch as they can have no tangible gain by the payment of such assessment and are yet liable to the mulgenigars for any payment they may make to avoid the sale of the holding?

(*f*) Will the Government be pleased to direct revision of assessment, if one must be made, on the basis of the rental the wargdars are in receipt of?

(*g*) Having regard to the fact that the survey and the classification of the soils of South Canara have been attended with exceptional difficulty and that owing to the peculiar nature of the district, broken and precipitous with numerous terraced hill-sides and narrow-winding valleys as stated in paragraph 2 of G.O., No. 757, Revenue, dated 25th August 1902, enormous and unceasing industry is requisite to obtain adequate yield from land, will the Government be pleased to declare the finality of the present classification?

(*h*) With reference to the observation of the Government in the said Government Order that "the Commissioner contemplates a considerable reduction of the assessment on the hearing of the appeals as it is believed that in parts the classification of inferior land in some parts and especially in Kasaragod taluq has been unduly high", will the Government be pleased to direct the settlement officer concerned to reduce all such assessment irrespective of appeals, if any, made in that respect and levy only the reduced rates of assessment?

(*i*) With reference to the soils classified in South Canara, will the Government be pleased to state the means employed to differentiate the yield due to the natural productivity of soil from that due to the ryots' industry and improvement?

The Hon'ble Mr. Forbes :—

XVIII. (*a*) The system of survey and settlement now being applied to South Canara district was first formulated in 1855. The districts of the presidency were surveyed and settled successively, the two West Coast districts being left to the last. The physical characteristics of these districts and the nature of their land tenures gave rise to many difficult problems in the construction of a scheme of settlement, and explain why these districts were not taken up earlier in the settlement programme.

(*b*) Yes.

(*c*) South Canara is now for the first time being settled on the methods of revenue assessment adopted in this presidency. The reasons for the various processes followed are explained in the settlement report, which has been published.

(*d*) The Government are not aware that any such declaration was published.

(*e*) and (*f*) The permanent alienation by a wargdar of his interest in the land in return for a fixed rent is no reason why the State should restrict its claim for land revenue to a share of the fixed rent.

(*g*) The Government cannot undertake to bind their successors in the manner suggested.

(*h*) The Government do not consider that any such general instruction is required.

(*i*) Such differentiation is not made nor is it practicable. The industry and improvements of the ryots are taken into consideration in fixing the rates of assessment.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

XIX. (*a*) In regard to the Mangapatnam railway disaster of the 12th September last, will the Government be pleased to state whether the committee of enquiry who enquired into the accident were nominated by them or by the railway company?

(*b*) Whether at the enquiry by the committee, which consisted of the Railway Chief Engineer, the Traffic Manager, and the Locomotive Superintendent, the District Magistrate and the Government Inspector were present merely to watch the proceedings or as members of the committee?

(*c*) Have the District Magistrate and the Government Inspector taken part in the report of the committee, and signed the same?

(*d*) Whether, in view of the demand made by the public in the press from the date of the disaster for an enquiry by an independent committee, the Government will be pleased to take into consideration the desirability of appointing a mixed commission of Government officials and non-officials for making an investigation?

(*e*) Whether the Government will be pleased to consider the desirability of appointing as president of such a commission one of the Judges of the High Court?

The Hon'ble Mr. Stokes :—

XIX. (*a*) The rules for investigation of a railway accident as required under the Railway Act are specified in Government of India Circular No. III Railway, dated 14th February 1902. The enquiry at Mangapatnam was made by the following three authorities acting independently :—

(i) A "committee of joint enquiry" nominated by the Agent of the Railway.

(ii) The Government Inspector of Railways.

(iii) The District Magistrate.

(*b*) As indicated in the reply to clause (*a*), the Government Inspector and the District Magistrate are not members of the "committee of joint enquiry" nominated by the Agent, nor are they present merely to watch the proceedings. They take such part in the enquiry as may seem to them to be necessary.

(*c*) The District Magistrate and the Government Inspector do not sign the report of the "committee of joint enquiry" nominated by the Agent. They make and sign their own reports.

(*d*) The matter having been fully enquired into by the persons appointed by law to make the enquiry, the Government will not take into consideration the desirability of appointing any other persons to make an investigation.

(*e*) As no such commission will be appointed, it is not necessary to consider the question of appointing a president.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

XX. (*a*) With reference to the annual examination by the Railway District Engineer of the Mangapatnam bridge on the 11th May 1902, will the Government be pleased to state what report was made by the Engineer as to the soundness or otherwise of the structure ?

(*b*) Was the District Engineer who made the examination called as a witness before the committee of enquiry, and, if not, why was he not called ?

(*c*) With reference to the fact that the special night watchmen were dispensed with from the 31st August 1902 (twelve days before the disaster), have the Government ascertained as to why this step was taken at a time when it was most needed ?

(*d*) Are not the months of August, September and October the season of heavy rains in Cuddapah known as the tank-filling season ?

(*e*) Is it a fact that the gang maistry and his men showed the white light (safe signal) at about 205/10 mile on the night of the accident in question to No. 32 train which was the last to cross the fated bridge, and is it a fact that the driver and the guard of this train deny having seen the white light ?

(*f*) Was any explanation forthcoming at the enquiry for this serious contradiction of statements, and, if so, which of the statements was found by the committee to be the true one ?

(*g*) Whether, upon a consideration of all the circumstances and the discrepancies in the evidence of the gang maistry and his coolies in regard to their patrolling on the night in question referred to by Captain Hearne, the Government are not in a position to state that, if the special night watchmen had been kept on, this disaster would have been averted ?

(*h*) Were the witnesses examined before the railway committee of enquiry exclusively railway servants who were on duty on the night of the accident ?

(*i*) Was the evidence of the head clerk of the Traffic Manager's office of the Madras Railway and the chief guard of the train who happened to travel by the train in question as passengers taken by the committee ?

(*j*) Were no other passengers who travelled in the said train and other outsiders examined by the committee, and, if not, what was the reason for the omission?

(*k*) Are there any definite rules in force in the Madras Railway to regulate the system of patrol by the gang maistry and by his men on rainy nights whether there are special night watchmen or not?

(*l*) With reference to the observations of the Government Inspector that "it was an error of judgment on the part of the Tulukanam maistry to have kept the men together, so that all were cut off, and the patrolling rules might be modified by the addition of a warning against this practice when the gang turns out," that "one man should remain in each mile and patrol backwards and forwards meeting the next man at each end of the beat" and that "in this case a man patrolling from 204/8 mile to 205/8 might have averted the disaster," will the Government be pleased to ascertain and state who is responsible for the want of any system in the patrol indicated in the above quotations?

(*m*) What was the rate of speed at which the train in question was running when it was precipitated into the gap of the Mangapatnam wrecked bridge?

The Hon'ble Mr. Stokes:—

XX. (*a*) No report was made by the Railway District Engineer on the condition of the bridge, as there was no necessity to do so.

(*b*) The District Engineer who made the examination was called as a witness. He appears as witness No. 10 in the report.

(*c*) The general rules under which night watchmen were dispensed with after certain dates, differing in different districts, were framed in 1880 as the result of experience gained up to that date and have been modified from time to time since. The experience obtained at the time of framing the rules appeared to show that the 31st August was a suitable date for discontinuing the special watchmen in that district.

(*d*) If the tanks are filled in Cuddapah it is generally in the months of August, September and October.

(*e*) The maistry and his two men state in their evidence that they showed a white light to No. 32 train. The driver and guard of that train both state that they did not see the light.

(*f*) As indicated in the report, the statements of the driver and guard do not contradict those of the gangmen. They merely fail to confirm them. The committee consider the statements of the gangmen with regard to this matter to be probably correct but not positively confirmed.

(*g*) The Government are not in a position to state that if the special watchmen had been kept on the disaster would have been averted. The Senior Government Inspector is of a directly contrary opinion as indicated in paragraph 6 of his remarks.

(*h*) The witnesses examined were not exclusively railway servants who were on duty on the night of the accident. The names and designations of the witnesses are given in the report.

(*i*) The evidence of the head clerk of the Traffic Manager's office was taken. The second part of the question is not clear. The evidence of the chief guard, Johnstone, of the wrecked train was taken. The list of persons who escaped shows that a guard of the Great Indian Peninsula Railway travelled as a passenger and his evidence was not taken.

(*j*) The evidence of several passengers was taken and also that of other persons who were not passengers. The names and designations of the witnesses are given in the report.

(*k*) The rule is that whenever heavy storms occur the gang maistries and men are expected to patrol and the permanent-way inspector to be out.

(*l*) The absence of the system indicated by the Government Inspector as, in his opinion, desirable is due to the fact that since the introduction of railways into India circumstances exactly similar to those at Mangapatnam have not occurred so that nothing has previously shown such a system to be desirable.

(*m*) The exact speed of the train can only be a matter of conjecture. Its time-table speed is about 35 miles an hour and, as it was running punctually, it is probable that it was travelling at this rate.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—

XXI. (*a*) With reference to the observations* of the Government Inspector, Captain Hearne, in paragraph 5 of his report, regarding the structure of the Mangapatnam bridge, will the Government be pleased to state why no attention was paid to the foundations of the pier at the subsequent annual or periodical examinations by the railway staff and the same taken down to harder soil ?

(*b*) Has it not been found possible to fix the responsibility for the above omission ?

* "After the Cheyar disaster in 1870 a commission of experts was appointed by Government to examine and report upon all bridges of the north-west line, with a view to set at rest doubts which had arisen as to the stability of the bridges. They duly examined this bridge at mile 205/7 and reported on the 1st March 1871 in the terms stated in the proceedings of the committee under the head 'Description of locality.' It will be observed that they did not examine the foundations of the pier which has been washed away and were apparently satisfied that the *Mooranboo* on which pier No. 1 is founded extended across the stream at the same depth. They recommended that four bridges (but not this one) should be floored, and evidently considered it perfectly safe. The upper works of the bridge appear to have been regularly inspected, and though in the light of after events one may say that the foundations ought to have been taken down to harder soil or that the bridge ought to have been floored, it is impossible to say that there is any blame attaching to the present railway administration on this account."

The Hon'ble Mr. Stokes :—

XXI. (*a*) No attention was paid to the foundations of the pier at subsequent annual or periodical inspections because they were examined and found to be satisfactory by the committee of 1871. This has been confirmed by an examination made at the end of October, after the water had subsided, which shows that the pier failed by being overturned and that its foundations were not under-scoured. This matter is described in the remarks of the Senior Government Inspector, paragraph 3.

(*b*) There has been no omission that requires the fixing of responsibility.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—

XXII. Pending the consideration of the question of improving the system of bridge-watching and line-patrolling, will the Government be pleased to issue orders for immediate arrangements being made on all railways under their control in the presidency—

(*a*) for posting permanent watchmen at all bridges throughout the year,

(*b*) for patrolling the line during nights throughout the season rains,

(*c*) for providing the engines with powerful head-lights which will enable the drivers to look ahead a considerable distance, and

(*d*) for slowing down when driving over bridges ?

The Hon'ble Mr. Stokes :—

XXII. (*a*) No.

(*b*) Rules are already in operation for patrolling during the rainy season.

(*c*) The question of more powerful head-lights is one that is under the consideration of the Railway department.

(*d*) No. The Government will not issue such orders.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal :—

XXIII. (*a*) What are the regulations in force on the Madras Railway, the South Indian Railway, and other railways in the presidency in the matter of the rate of speed to be observed by drivers when driving over bridges, and whether a reduced rate of speed is adopted when driving over bridges ?

(*b*) What is the existing system of bridge-watching and line-patrolling on the South Indian Railway?

The Hon'ble Mr. Stokes :—

XXIII. (*a*) There are no general regulations in force in the matter of the speed to be observed by drivers when driving over bridges. A reduced speed is not adopted. Special rules are made to meet special cases, such as when a bridge is under repair.

(*b*) There is no special system of bridge-watching on the South Indian Railway. The rules for line-patrolling on the South Indian Railway are practically the same as on the Madras Railway and are set forth in rule 144 of the "Working Instructions".

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

XXIV. (*a*) Has the attention of the Government been drawn to the rapidly declining condition of the tanning industry in the Presidency of Madras which was once in a very flourishing condition?

(*b*) Was the number of tanneries in the presidency till recently upwards of 300, whereas the present number is only 100?

(*c*) Whether the existing tanneries are not in a struggling condition?

(*d*) Whether it is a fact that the United States of America are levying an import duty at rates ranging from 12 to 20 per cent. on all tanned skins, while admitting raw skins free of duty?

(*e*) Is it a fact that the exports of raw untanned skins during the past five years have risen in value from Rs. 4,49,42,970 to Rs. 5,57,66,378, while the exports of tanned skins fell in value from Rs. 4,49,41,853 in 1900–1901 to Rs. 2,26,40,461?

(*f*) Whether in the United States a new tanning process called "Chrome" has been introduced, and whether the Government will cause enquiries to be made in view to the new method being introduced in this presidency?

(*g*) Whether the Government will be pleased to take such other steps as may be called for to revive the tanning industry in Madras?

The Hon'ble Mr. Forbes :—

XXIV. (*a*) The Government are aware that there has been a decline in the tanning industry in this presidency.

(*b*) The statistical returns of large industries supply the following figures :—

Year.	Number of tanneries working.
1898	122
1899	134
1900	172
1901	15

(*c*) & (*d*) The Government have no information on these points.

(*e*) The figures quoted are substantially the same as those given on pages 49 and 53 of Vol. I of the annual statement of trade and navigation for the year ending the 31st March 1902 published by the Government of India.

(*f*) & (*g*) The Government believe that some new tanning process is now used in America, but have no detailed information and are now inquiring into the subject.

The Hon'ble P. Ratnasabhapati Pillai Avargal :—

XXV. (*a*) With reference to the dismissal of the station-house officer Krishnaswami of Milavaram (Kistna) by the acting Superintendent of Police on 4th December

1900, will the Government be pleased to ascertain and state if an enquiry in accordance with Police order No. 345 sanctioned by them had been made before the dismissal was ordered?

(*b*) If the rules prescribed have not been observed, will the Government be pleased to direct that an enquiry be held on the charges against the station-house officer in accordance with the Police order quoted above?

The Hon'ble Mr. Stokes :—

XXV. The Honourable Member is requested to repeat the question at the next meeting of the Council.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—

XXVI. (*a*) Whether His Excellency the Governor in Council has received a memorial dated April or May current from seventeen ex-hospital assistant students of the Madras Medical college and of the Prince of Wales' Medical school, Tanjore, representing that, in consequence of their failure at the final examination last year to secure the required minimum in two or more subjects and 50 per cent. of the total number of marks, they have been declared ineligible for the examination any further even as private pupils?

(*b*) Whether the examination for the grade of hospital assistant, unlike the L.M.S., M.B. and C.M. examinations, is purely a vivâ voce one, and if so, why has it been considered necessary to place that examination on a peculiar and special footing?

(*c*) Whether the Government will be pleased to take into consideration the desirability of making the examination for the grade of hospital assistant partly written and partly vivâ voce?

(*d*) Whether, as desired in the proceedings of the Director of Public Instruction, No. 6132, dated 26th June 1900, the Principal of the Medical college submitted any proposals to revise the rules on the subject approved in G.O., No. 697, Educational, dated 7th November 1889, in view to enabling failed students to reappear for the examination after a further course of training for one year in the final year subjects, and if so, what orders, if any, were passed by the Government on such proposals?

(*e*) Whether two of the Mysore State students, viz., A. Jayasilaraya Pillai and A. Masilamani Mudali, who failed in the hospital assistants' examination of March 1900, in two subjects and also in the total marks, were permitted to attend another year's course, while P. R. Veeraswami Nayudu, of the Tanjore school, who failed similarly in the examination of March 1901, has been refused permission to attend for a further course of one year? If so, will the Government be pleased to ascertain and state the reasons for such differentiation in the treatment of students from Mysore and the same from Tanjore?

(*f*) Whether the Government will be pleased to afford all possible facilities in the promotion of medical education in the country by taking steps to revise the rules on the subject and placing the examinations for hospital assistants on a footing of equality with other examinations, medical or otherwise?

(*g*) Whether any and what orders have been passed by the Government on the memorial referred to in clause (*a*) of this question?

The Hon'ble Mr. Stokes :—

XXVI. (*a*) The Honourable Member is referred to the answer given to question No. XXVI at the meeting of the council held on the 2nd June 1902.

(*b*) & (*c*) The examination has always been conducted vivâ voce and is a sufficiently accurate test of the amount of knowledge which a member of the hospital assistant class should possess. The Government see no necessity for any change in this respect.

(*d*), (*e*) & (*f*) The rules sanctioned in G.O., No. 697, Educational, dated 7th November 1889, allow the council of the Medical college sufficient discretion to deal with the case of pupils who fail at the final examination, on the merits of each case. The Governor in Council purposes to modify the rules so as to prohibit expressly the readmission to a further examination of pupils who fail in two or more subjects and who do not obtain 50 per cent. of the total number of marks. The Government have no present intention of making any further alteration.

(*g*) A copy of G.O., No. 643, Educational, dated 16th October 1902, will be laid on the table.

The Hon'ble G. Srinivasa Rao Avargal :—

XXVII. Will the Government be pleased to state why a member of the Provincial Civil Service was not appointed in the place of Mr. Manavadan Raja, District and Sessions Judge, North Arcot, on leave?

The Hon'ble Mr. Stokes :—

XXVII. When Mr. Manavadan Raja went on leave four judgeships were held by Statutory and Provincial Service officers. The appointment of Mr. Cotton was made to avoid transfers and in the general interests of the public service.

The Hon'ble G. Srinivasa Rao Avargal :—

XXVIII. (*a*) Is it a fact that the time granted by the special settlement officer in South Canara to object to the issue of rough pattas by him is only ten days?

(*b*) The district being surveyed and settled for the first time and the land tenure of South Canara being somewhat complicated, will the Government be pleased to direct that a longer time for objections to the issue of rough pattas be given by the settlement officer?

The Hon'ble Mr. Forbes :—

XXVIII. (*a*) Under paragraph 24 of the settlement notification, ten days is the minimum period of notice given to the pattadars of each village as to the time and place where objections will be received. A similar period has been prescribed at all recent settlements and has been generally found adequate. The settlement officer has discretion to extend the time on good cause shown. In fixing dates for receiving objections, the settlement officer will have regard to the time required to furnish, on application, copies of extracts from the land registers and field maps showing the numbers entered in the rough pattas, or of extracts of any other document which the settlement officer is satisfied is *bonâ fide* required to enable the pattadar to identify the fields and understand the entries in his rough patta. Every pattadar who uses due diligence in applying for any copies he requires will thus have ample time to satisfy himself as to the correctness of his rough patta and to bring errors to notice.

(*b*) As at present advised the Government see no sufficient reason to comply with this request.

The Hon'ble G. Srinivasa Rao Avargal :—

XXIX. (*a*) Is it the fact that there are no irrigation reservoirs or channels maintained by the Government in the district of South Canara?

(*b*) If so, what are the irrigation reservoirs or channels and what is the annual cost to the Government of maintaining them?

(*c*) Are the improvements in cultivation in South Canara solely due to the industry of the people and to great outlay of money by them?

(*d*) If they are, are not such improvements entitled to exemption from fresh taxation?

The Hon'ble Mr. Forbes :—

XXIX. (*a*) & (*b*) The answer to clause (*a*) is in the affirmative.

(*c*) & (*d*) The Government do not understand what the Honourable Member means by "improvements in cultivation".

The Hon'ble G. SRINIVASA RAO Avargal :—

XXX. (*a*) Is it a fact that a person convicted twice for criminal breach of trust and sentenced to rigorous imprisonment twice in 1898 is a teacher of the second form in the Arcot Mission college at Vellore and has been drawing grants from the municipality of Vellore whose chairman is the manager of the college?

(*b*) Will the Government be pleased to point out that the entertainment of such a teacher in a recognised college is against rules and discipline and ought not to have been made by the manager of the institution?

The Hon'ble Mr. Stokes :—

XXX. The Government have not received any report on the matter which the Director of Public Instruction is competent to deal with on his own responsibility.

The Hon'ble G. SRINIVASA RAO Avargal :—

XXXI. Will the Government be pleased to state—

(*a*) What, respectively, were the debts due by the estates of Karvetnagar and Kálahasti when the Court of Wards assumed management of them?

(*b*) Whether any, and if so, what portion of them have been liquidated until now?

(*c*) Whether the liquidation, if any, was from the income of the estate?

(*d*) Whether any, and if so, what steps have been taken by the Court of Wards for the early liquidation of the debts that still remain unpaid?

(*e*) What the cost of the establishment in the two estates was before the Court of Wards assumed charge of them and what it has been since?

(*f*) Also whether it is true that claims made to the Collector by menial servants for arrears of pay and by suppliers of the necessary articles of life for moneys due to them were finally disallowed by the Collector on the ground of limitation, while such claims were within time when they were first made?

The Hon'ble Mr. Forbes :—

XXXI. The Honourable Member is referred to the annual reports on the administration of the estates under the Court of Wards, which reports contain all the information that can be published on the subject of the Honourable Member's questions. The report for the year 1901-1902 will be issued in about three months' time.

The Hon'ble G. SRINIVASA RAO Avargal :—

XXXII. Is it a fact that the police of Sholavandan station in the district of Madura charged nine Pallas of Mannadimangalam village in Madura taluq with the murder of a schoolmaster, that one of the Pallas was forced to make a confessional statement, that flesh and bones were produced by the police as belonging to the body of the deceased, and that while the preliminary enquiry was going on before the committing magistrate the schoolmaster alleged to have been murdered appeared before the magistrate from Negapatam and saved the Pallas?

The Hon'ble Mr. Stokes :—

XXXII. The Government have no information with regard to the case, but will call for a report.

The Hon'ble G. SRINIVASA RAO Avargal :—

XXXIII. (*a*) Is the construction of a new building for the taluq cutcherry of Úttangarai taluq in the district of Salem in the contemplation of the Government?

(*b*) If so, will the Government be pleased to order its construction in Harur instead of at Úttangarai?

The Hon'ble Mr. Forbes :—

XXXIII. The Government understand that the local officers have under consideration a proposal to build a new taluq office in the Úttangarai taluq, but the matter has not yet been submitted for the orders of the Government. The question of the location of the office will be duly considered should it be decided to build one.

The Hon'ble G. Srinivasa Rao Avargal :—

XXXIV. (*a*) Is it a fact that the court of enquiry over the loss of the *Camorta* has not ascertained the depth of the ship in water when she left Calingapatam and the sufficiency or otherwise of the ballast in the ship as she sailed out?

(*b*) Is it also a fact that the said court of enquiry has not gone into the question of the non-maintenance of nominal rolls by the agents of the ship?

(*c*) If so, will the Government be pleased to pursue the enquiry further, so as to find out the real and the exact cause for the foundering of the ship and thereby avoid the repetition of the mistake in future?

(*d*) Will the Government be further pleased to state whether any and what steps have been taken for the maintenance of lists of passengers by ship agents in future?

The Hon'ble Mr. Stokes :—

XXXIV. (*a*), (*b*) & (*c*) The Marine court of enquiry was held at Rangoon under the orders of the Government of Burma, and this Government have not been furnished with a copy of the proceedings. The Government are therefore not in a position to reply to the Honourable Member's questions.

(*d*) No steps have been taken in the direction indicated by the Honourable Member. Emigration from India to Burma is free from all restrictions and the maintenance by shipping agents of nominal lists of passengers cannot be insisted on.

The Hon'ble G. Srinivasa Rao Avargal :—

XXXV. Will the Government be pleased to state—

(*a*) The demand and the collection of Government revenue from lands in the taluq of Walavanad in the Malabar district for fasli 1311?

(*b*) Whether there was any and, if so, what amount of excess collections of land revenue in the said taluq of Walavanad during fasli 1311, and what led to such excess collections?

(*c*) Whether such excess collections were the result of collections on the basis of the figures in rough pattas before they were duly revised and corrected?

(*d*) Whether such excess collections have been already refunded to the parties concerned or, if not, why not?

(*e*) The number of distraints of movables for the collection of the kist of fasli 1311 in the taluq of Walavanad?

(*f*) The amount realized from the land-holders of the said taluq in the shape of fees for conveying the distrained movable properties to the taluq cutcherry and as fees for watching them while under distraint?

(*g*) Whether in any, and, if so, in how many, cases were the properties of both the pattadars and the occupants of lands simultaneously attached and proceeded against for arrears of revenue of fasli 1311 in the said taluq?

The Hon'ble Mr. Forbes :—

XXXV. The information desired is not available in the Government office but will be called for.

The Hon'ble G. Srinivasa Rao Avargal :—

XXXVI. Will the Government be pleased to state—

(*a*) Whether any, and, if so, how many, appeals were preferred by the land-holders of Palghat, Walavanad, Kurumbranát and Calicut to the Board of Revenue against the orders of the special settlement officer regarding assessments of lands for fasli 1311?

(*b*) Whether it is true that the Board of Revenue sent the appeal petitions for the report of the settlement officer who made the assessments?

(*c*) Whether in any, and, if so, in how many, cases the orders of the Board of Revenue on appeal differed from the recommendations of the settlement officer?

The Hon'ble Mr. Forbes :—

XXXVI. (*a*) & (*c*) The Board of Revenue will be requested to include information on the points indicated in the questions in the final settlement report, but the Government see no reason specially to call for a return now.

(*b*) The procedure indicated would be a proper one to follow: and the Government have no doubt that the Board have adopted it in cases where a report was required.

The Hon'ble G. SRINIVASA RAO Avargal :—

XXXVII. (*a*) Is it true that a low caste revenue inspector entered into and desecrated the Hindu temples at Parangode and Srikrishnapuram in the taluq of Walavanad for the purpose of attaching the movable properties therein?

(*b*) If true, will the Government be pleased to state the amount of arrears which was due in each case and the number of Uralars in charge of the temples and whether the Uralars were approached for the payment of the arrears?

The Hon'ble G. SRINIVASA RAO Avargal :—

XXXVIII. Is it a fact that the necessary puja vessels in the temple of Kolathur in Walavanad taluq with the holy rice offered to the god in some of them were attached and conveyed to the taluq cutcherry?

The Hon'ble G. SRINIVASA RAO Avargal :—

XXXIX. Is it true that the copper drum in the temple of Kuruvampallam in Walavanad taluq was polluted, distrained and carried to the taluq cutcherry for arrears of kist?

The Hon'ble Mr. Forbes :—

XXXVII-XXXIX. The Government have ascertained that the allegations contained in these questions are untrue.

The Hon'ble G. SRINIVASA RAO Avargal :—

XL. Is it the fact that the big cauldron—a vessel used for the preparation of *payasam* on a large scale—in Tirumathamkannu in Angádipuram amsam in the taluq of Walavanad was attached and removed to the taluq cutcherry and whether a female devotee was thereby prevented from making her offerings the next day?

The Hon'ble Mr. Forbes :—

XL. It is true that a copper cauldron was selected and made over to the *adhikari* by the *kariastan* of the temple when an attachment was issued. The Government have no knowledge that a female devotee was prevented from making her offerings.

The Hon'ble G. SRINIVASA RAO Avargal :—

XLI. (*a*) Is it true that the district board of Malabar propose to close the dispensaries at Kuthuparamba, Quilandi and Tripráyar and to convert the hospitals at Badagara and Nílambúr into dispensaries?

(*b*) Is it true that the same district board have proposed to effect an annual reduction of about Rs. 2,000 in the pay of the inspecting schoolmasters and of about Rs. 4,000 in the salary of the schoolmasters in the service of the board?

(*c*) If true, will the Government be pleased to note that the proposals, if given effect to, will greatly affect the interests of the public in a backward district and therefore order the carrying out of the proposals to be kept in abeyance, pending the final orders of the Government on them?

The Hon'ble Mr. Stokes :—

XLI. (*a*) Yes.

(*b*) Yes.

(*c*) The proposals will not be given effect to until the final orders of the Government are received by the district board.

The Hon'ble G. SRINIVASA RAO Avargal :—

XLII. Will the Government be pleased to order the estate of Udaiyárpálaiyam to be omitted from, and the estate of Arni to be added to, the schedule to the Madras Impartible Estates Bill?

The Hon'ble Mr. Forbes :—

XLII. The provisions of the Bill are at present under consideration in communication with the Government of India, and the Governor in Council is therefore not in a position at present to reply to questions regarding the inclusion or exclusion of particular estates.

The Hon'ble G. SRINIVASA RAO Avargal :—

XLIII. (*a*) Is it a fact that the consolidated travelling allowance of Rs. 25 a month now given to sub-assistant inspectors of schools is hardly sufficient to meet the expenses requisite for carrying out their wandering duties?

(*b*) Will the Government be pleased to order the abolition of the consolidated monthly travelling allowance in the case of the sub-assistant inspectors of schools, and to place them in the matter of mileage and travelling allowance on a footing of equality with either Public Works department overseers or the inspectors of post offices who are paid a daily batta of Rs. 1-8-0 or Rs. 2, respectively?

The Hon'ble Mr. Stokes :—

XLIII. The Government have no reason for considering that the present allowance is insufficient, and do not purpose to alter the existing arrangement.

ACT ASSENTED TO BY HIS EXCELLENCY THE GOVERNOR.

12-40 P.M.

The Secretary reported that the Madras Impartible Estates Law, 1902, had received the assent of His Excellency the Governor on the 6th June 1902.

ACT ASSENTED TO BY HIS EXCELLENCY THE GOVERNOR-GENERAL.

His Excellency the PRESIDENT :—I have the honour to announce that the Madras Impartible Estates Law, 1902, received the assent of His Excellency the Governor-General on the 1st July 1902.

PETITIONS, ETC.

The Secretary reported the receipt of the following telegram from the Honorary Secretary, Wynaad Planters' Association, dated the 11th December 1902, on the subject of the Madras Planters Labour Bill :—

"This association strongly protests against the abolition of Act XIII of 1859 and also against the compulsory introduction of the new Labour Act for all classes of coolies. It has always been clear that to compel all planters in this district to include under the new law every class of labour employed would mean ruin to such as employ Malabar labour only, and we have hitherto abstained from opposition on the absolute assurance on the best authority that the use of the Act would be entirely optional."

The Secretary laid on the table the following papers :—

(i) Board's Proceedings, No. 633, dated 23rd September 1897, on the subject of crop-experiments, referred to in the answer to question No. III at the meeting of the Council held on the 2nd June last.

(ii) A statement showing the nationality and other particulars of persons appointed as local fund engineers, referred to in the answer to question No. X at the same meeting.

(iii) Board's Proceedings, No. 240, dated 5th October 1901, regarding the transfer of the head-quarters of the Gódávari Collectorate from Cocanada to Rajahmundry, referred to in the answer to question No. XXII at the same meeting.

THE MADRAS PLANTERS LABOUR BILL, 1902.

The Hon'ble Mr. G. STOKES:—Your Excellency, under rule 34 of the rules for the conduct of business in the Legislative Council, it is provided that no Bill shall be introduced until fifteen clear days from the date of its publication under rule 32 or rule 33, as the case may be. I have now to move that the operation of this rule be suspended under rule 70. In the case of the Madras Planters Labour Bill it was published on the 5th December and has been, since that time, before the Council. There is, therefore, only a very small deficiency in the requisite time for publication. As we are now situated, practically no steps will be taken to go on with the Bill until the middle of January. There will therefore be ample time for any body who has any objections against the details of the Bill to bring them forward. As to the general principles of the Bill, it is understood that they will be discussed here to-day. I think that those persons who are most interested in the Bill are least likely to raise any objection. I therefore move that the operation of the proviso to rule 34 be suspended.

The Hon'ble Mr. J. THOMSON seconded the motion.

The Hon'ble K. PERRAJU PANTULU Garu:—May it please Your Excellency, it is perhaps unpleasant to oppose a motion that is meant to facilitate the consideration of the Bill in its initial stage. Although the procedure now sought to be adopted is not so exceptional and objectionable as the one in connection with the Impartible Estates Bill, which was considered and passed at one sitting on the hills as if the whole country was in danger, I feel it my duty to oppose the motion, for the present legislation is the first of its kind in Southern India and materially affects the freedom of the labouring community, and Honourable Members will afterwards be debarred from discussing the principles of the Bill. The Bill has hardly been in our hands for a fortnight. Its publication was ordered only a few days ago, so that the formality of being introduced in the ordinary course was not observed. So far as the people are concerned, no sufficient opportunity has been given to them to look at the Bill in its various aspects and form an independent opinion as to its main principles. It seems that the matter formed the subject of the report of a committee appointed by Government, but that report reached Honourable Members only a few days ago. I regret to have to submit that so far as the Government is concerned, ample time has been taken, but so far as the people are concerned, no sufficient opportunity has been allowed. As the Bill is an important measure, I would submit that sufficient opportunity be given for us to consult the public as to their opinion of the Bill and form an intelligent understanding as to the main principles of the Bill. I am therefore constrained to oppose the present motion.

The Hon'ble P. RATNASABHAPATI PILLAI Avargal:—I agree in the remarks of my predecessor. Rule 34 says that fifteen clear days should be allowed. I understand that is the minimum period allowed, and in Bills of this description, a longer period should be allowed for the public and the Honourable Members of this Council to study them. Once this Bill is referred to a Select Committee, the principles of the Bill could not be discussed. As the matter is not a very urgent one, the requirements of rule 34 may be complied with and a longer time than fifteen days be allowed.

The Hon'ble G. SRINIVASA RAO Avargal:—In opposing the motion to suspend rule 34, I beg to submit that no urgency has been placed before the Honourable Council as to why that rule should be suspended. In the absence of urgency, there is no occasion to hurry through the business and consider the principles of this Bill now. It will only be repeating what my learned friends have here stated, if I should say that the period allowed under rule 34 is the minimum period and if an important measure like this is to be taken up for consideration, I do not see why longer time should not be given. If there is any urgency about it, certainly it will be well for Honourable Members to meet here, suspend the operation of rule 34 and take the Bill into consideration. But there is no urgency about it. On the other hand, a great deal will be gained by giving more time to Honourable Members to consider the provisions of the Bill. It strikes me that rather than leave it to us to oppose this motion it will be well for the members of Government to defer the consideration of this Bill and carry out the provisions of rule 34.

The Hon'ble Mr. G. L. ACWORTH:—In opposing the suggestion of the Honourable the native Members that the consideration of this Bill should be deferred, I beg to point out that the planters have been very patient about this Bill. The Government of Madras drafted this Bill in consultation with the Government of India in 1899,

and it has been going backwards and forwards between the Madras Government and the Government of India for three years. The Commission on whose report this Bill was originally drafted sat in 1896 and their report was published in 1897. The matter has been long on the anvil and freely discussed, and it has been in the power of each of the Honourable the native Members to obtain the report of the Commission on the planters' labour grievances any time during the last five years. I therefore strongly support the motion of the Hon'ble Mr. Stokes.

His Excellency the PRESIDENT :— I am very much surprised that this objection should have been raised by our Honourable Colleagues opposite. I think they would have behaved with greater candour and helped us better if they had let me know beforehand of the strong objections which, they say, they feel to the introduction of the Bill at the present time. I have not received a word or hint that there would be the least objection to facilitating the general despatch of the business of the Legislative Council by suspending this rule now and introducing this Bill. The Honourable Members say that they have had the papers only for a few days. But the papers were issued on the 5th December, so that ten clear days have elapsed since the papers have been in their hands. This is no new question sprung upon them suddenly. The principles and the necessity of the Labour Bill have been discussed publicly for fully six years; the report of the original Committee has been accessible to all; and neither in the press nor elsewhere has there been any objection raised to the principles of the Bill, the necessity for which has been generally admitted. I regret, therefore, that I cannot see any force in the objections which the Honourable Members have made to the Hon'ble Mr. Stokes's motion.

The motion was then put to the Council and agreed to.

The Hon'ble Mr. G. STOKES, in moving that the Bill be read in Council, said:—

1 P.M.

Your Excellency, the operation of rule 34 being suspended, the next step that is necessary for me to take is to move that the Bill be read in Council. As the rule puts it, the principles of the Bill and its general provisions will then be discussed. I shall, therefore, proceed to offer a few remarks upon the general principles of the Bill and its provisions. I may say that here in South India many of us, even though we are not employers of organized labour, are familiar with the demand for advances on many occasions, but we do not realise perhaps how universal that demand is. Whenever labour on a large scale has to be organized, it can only be done successfully under the system of advances. We need not, therefore, be surprised at finding that the labour on plantations is universally organised on this system. It is, undoubtedly, a bad system, but it is so universal and so deeply seated in the habits of the labourers that it is impossible either to ignore or overthrow it. Even in the great famine of 1876–78 I remember, when it was attempted to organise and move the people from the inland districts to the Buckingham Canal, it was necessary to make advances, and the case largely illustrated the inherent evil of the system, for not much above half the labourers to whom advances were made ever turned up on the works. Special officers were sent to accompany the gangs, but, notwithstanding all watchfulness, they melted away at every stage of the journey. It may be taken, I think, as undoubted that the planter must make large advances, and that he must and does lose much money in consequence of the fraudulent disappearance of the labourers. When we remember that the labour employed in the coffee industry was reliably estimated a few years ago at over 300,000 persons, of whom two-thirds were imported labourers, *i.e.*, labourers under advance, and that a considerable number of the labourers to whom advances were made never join the estate and that many more desert, it will, I think, be conceded that the fraudulent disappearance of the cooly or maistry with the advance made him is an evil of great magnitude, demoralising to the labourer and crippling to the planter and one which it is the duty of the State to correct. In paragraph 122 and appendix VII of their report, the Planters' Enquiry Committee give statistics of planters' losses which it is unnecessary to quote here in detail, but the returns show that the losses from the desertion of labourers vary from two-thirds of a rupee per acre cultivated in Madras and Coorg to Rs. 25 an acre in North Mysore. These figures do not include the losses suffered by the many other maistries or planters outside the associations making the returns and are, therefore, much below the mark. There are several provisions of the existing law designed to check and punish fradudent breach of contract, and it is because all action hitherto taken to meet the

evil has been unsuccessful that it is necessary for us to consider the subject to-day. Fraudulent breach of contract has been dealt with in section 492 of the Indian Penal Code, in section 12 of Act V of 1866, and by Act XIII of 1859. The first and second remedies are practically unknown. Section 12 of Act V of 1866, I should think, has never been used since it was placed on the Statute Book. Act XIII of 1859 is largely used and is useful in suitable circumstances, but it is a very imperfect remedy when applied to planting labour generally. The principle of the other enactments I have named is to punish the breach of contract, but in the case of Act XIII of 1859 the punishment is inflicted for breach of the magistrate's order. Section 492 punishes desertion and goes no further, and helps only planters in British India. Section 12 of Act V of 1866 merely prescribes a punishment for breach of contract and is even less comprehensive than section 492 of the Penal Code. Act XIII of 1859, too wide as it is on one side in not properly limiting the form and conditions of the contract to which it applies, yet gives the fraudulent maistry and cooly two opportunities of disappearing, while the whole difficulty in the case is to find the absconder once; and hence, though it is practically the only remedy available, it is but little resorted to compared with the number of desertions. None of these remedies gives what is really necessary to help the planting industry. It is not the punishment of the cooly nor the repayment of the advance that the planter wants. What is essential in the case of the planting industry is to get the work done for which the advance is made, whether that work be the supply of coolies by the maistry or whether it be the agricultural work of the estate. This position has been expressed by the phrase that what is wanted is specific performance. In the Bill this is to be attained in the two following ways. Following the principle of the Indian Penal Code and Act V of 1866, the breach of contract is itself made punishable, but power is given to the magistrate to release and make over the maistry or cooly sentenced to imprisonment to his employer with an order to complete his contract. This is a provision taken from the Assam Labour and Emigration Act, 1901. Specific performance is also recognised in the Bill in sections 31, 32 and 33 under which conviction and imprisonment is not to operate as a release, the labourer being compelled to return to service after his term of imprisonment, the period not only of his absence from service but also of his imprisonment being added to the term for which he has contracted to serve. The whole term which can so be added is, however, limited to nine months. But imperfect for its purposes as the existing law is in its operation, it is made still more imperfect by the difficulties of enforcing it. The planting industry is spread over a country, part of which is under the British Government and part under native rule. The planters under the British Government largely draw their labour from native territory, while those under native rule draw it from British. It is, of course, generally known that the criminal processes of the British courts do not run in Native States and *vice versâ*, and it is from this fact that the difficulty of enforcing the law, such as it is, flows. The various phases of the difficulty are set out in the report of the Planters' Enquiry Committee and I do not need to follow them here, but the result is that the planter in a Native State is everywhere practically powerless to enforce his contract against a British labourer. The British planter has, however, the advantage that he can enforce his contract against a Mysore labourer, though not against one from any other Native State. The Bill is drafted to give reciprocity in this matter and the manner in which such reciprocity will be attained is set out in section 42. The imperfections and anomalies of the existing law being thus removed, the Bill aims at safeguarding the position of the labourers. Happily in the south there is little need for this, for the simple reason that the labourer is master of the situation. There is little analogy between the conditions of the employment of planting labour in the south and in the north of India. In the south the labourer is absent from his home for only nine or ten months in the year, and he is a free agent to return or not after trying the service. There is much competition for his services. Hence, if he is not well treated on an estate, that estate cannot get labourers and so cannot be cultivated; and the planter who ill-treats his labourers finds he has cut his own throat. Thus we find that generally the cooly lines are good, that ordinary medicines are supplied, that medical attendance is provided for, that in sickness the cooly is dieted and is advanced subsistence money, and that convenient bazaars are generally available. But though such is the general state of the case, there are doubtless some estates for which things are not so well ordered; and it is, therefore, necessary to protect the cooly. Thus the Bill first deals with his contract, and provides that it shall be for not more than one year

and shall be expressed in writing and that the labourer shall properly understand it. It provides proper machinery for terminating the contract, for the provision of proper house-accommodation, water-supply, sanitary arrangements and medical attendance for the inspection of estates, and for remedying defects found. It provides that the cooly shall be properly maintained in illness and can get his contract cancelled on the ground of non-payment of wages or of ill-treatment, and these matters are to be enforced under appropriate rules and penalties; and having thus provided for his comforts it imposes penalties on him for absenting himself from labour or deserting. The other clauses of the Bill deal with subsidiary matters, of which the most important are those of enticing away or employing a labourer already under a labour contract, the recovery of sums due under the Act and the composition of offences. In regard, I may say, to all the latter part of the Act, the provisions of the Assam Labour and Emigration Act, 1901, have been followed. I have, in the course of the above remarks, referred once or twice to the maistry and it is necessary that I should explain the provisions of the Bill in regard to him. The position of the maistry in the organisation of labour in the south has no analogue in the north. He is somewhat like the garden sardar, but differs from him in important particulars. His functions and position are fully explained in chapter IV of the report. He is not the agent of the planter, but an independent party entering into a contract with him. He frequently contracts with the planter in a double capacity, first to supply labour and secondly as a labourer. In his first capacity he does not enter into a labour contract and he is outside the Act. In this capacity the only sections of the Act which apply to him are sections 20, 21, 29 and 40. In section 20 he is made punishable for non-appearance, for fraudulently failing to account for the advance, and for desertion. In section 21 he can be made to repay the advance which is recoverable under section 40, and by section 29 the principle of specific performance, to which I have referred above, is made applicable to him. In his capacity as a labourer he enters into a labour contract and becomes subject to the benefits and penalties of the Bill. In the south the planter very rarely employs labourers direct. The reason of this is that the labour gangs are usually persons from the same family or village or caste, who are all known to one another and to the maistry who is the head cooly and representative of the gang. He it is who employs the labour and directs it when working on the estate, and it is to him that the planter looks. The maistry, however, enters into a labour contract with the individual coolies and makes to them advances, of course from money he has received from the planter. Though ultimately the loss from fraudulent breach of contract falls on the planter, it first comes on the maistry. He, therefore, has always been regarded as entitled to protection against fraud and this protection is given in the Bill by regarding him as an employer. Equally with the planter he is, therefore, given all the remedies under the Bill against a fraudulent cooly, but the Bill is so drafted that if he has the remedy against the cooly the planter is deprived of it. One or other can set the Act in operation, but not both on the same contract. There is another point to which I must refer. The Bill is one designed to meet the wants of the planting industry generally. There are, doubtless, localities where local labour is available and imported labour is not employed, which will not welcome its introduction. A planter who employs only local British labour has in Act XIII of 1859 a very powerful instrument against which the cooly is not sufficiently protected, while the same Act is, as I have already stated, comparatively useless to a planter who employs imported Mysore or other labour from a distance, and is altogether useless to a planter in a Native State who employs British labour. In framing the Bill the object has been to devise an instrument which will be useful to all, and at the same time will benefit and protect the labourer. Hence, it has been found necessary to bar Act XIII of 1859 in any local area to which the Bill may be applied. Among the many objections which may be taken to that Act there is one of principle, to which I may allude in this connexion, and that is, that it is the one of the strongest influences making for the maintenance of the system of advances. For being as it is the only remedy to which the planter can appeal against fraudulent desertion, and being applicable only where an advance is made, advances are necessarily given to obtain the protection of the Act.

The Hon'ble Mr. G. L. Acworth, in seconding the motion, said:—Your Excellency, I rise to second the motion that the Bill be read in Council. I do not propose to say much at the present moment. As this Honourable Council is aware, this Bill has been very long under consideration and has been referred backwards and

forwards to the Government of India and the Secretary of State several times. I should, were it not for section 3, consider the Bill on the whole a good one, but section 3 has been received with little less than consternation in some of the planting districts. From Wynaad the Government have already received a formal protest against this section, and from the Nilgiris and Mysore protests against this section have reached me; and I have been urged to do all in my power either to get this section expunged, or so modified as to meet the requirements of those who deal largely in local labour. The Government in notes on the clauses say:

"The object of this clause is to prevent the concurrent application of Act XIII of 1859 and the proposed labour law to contracts for work of any kind between employers and labourers as defined in the Bill. It is, however, intended that the power which planters have of resorting to the provisions of Act XIII of 1859 in their dealings with persons, artisans or others, who fall entirely outside the scope of the proposed law, should be preserved."

Now it is obvious that, under this Bill as at present constructed, the planter will have no hold on the local labourer, for as the Honorary Secretary of the Nilgiri Planters' Association writes:—

"In this district numerous small contract agreements are made with coolies, "nearly always local men, to carry out certain small specific works such as weeding, "pruning, or digging, to each man or two or three men one portion or block of the "estate; or for clearing, cutting roads, building, etc. On each estate there are "dozens of such contracts every year and which are entered into at odd times. If all "these are to come under the new Act, the planter will find a large amount of hi "time taken up in riding to and from the court-house to get all these petty agree-"ments signed before a magistrate. To do this would be impossible as the planter "cannot afford to leave the estate constantly for every petty advance he gives out of "five or ten rupees. Many of these agreements too, with locals, are made on a verbal "contract in the presence of witnesses, the employer only securing a plain receipt for "the amount of the advance."

But I for one much doubt whether, when the Bill is in force, it is possible to get even at the artizan under Act XIII of 1859 as, from the explanatory notes I have just read, it was the obvious desire of the Government that we should be able to do. The definition of labour contract is—

"'Labour contract' means a contract entered into in accordance with the provisions of this Act to work for hire on an estate otherwise than as a domestic servant."

"'Labourer' means any person who enters into a labour contract with a maistry or a planter."

Now from these definitions it is to my mind clear that the moment an artisan enters into a contract with a planter he becomes a labourer within the meaning of this Act, and he cannot, therefore, be bound down under Act XIII of 1859. The good intentions of this Government for the application of Act XIII to this class of labour are, therefore, frustrated. Indeed, Sir, with one hand the Bill gives us a certain amount of power, which we have long asked for, and for want of which we have suffered much. With the other hand it takes away a certain amount of power which we have long had, which is most essential to us and which cannot be shown to have operated harshly. I most earnestly beg the Government to bear this in mind, and I trust that the Select Committee will so modify section 3, or insert such a clause in the Bill as will enable the planter to compel honesty from a class of men to whom the Bill, as it now stands, is a veritable inducement to be dishonest. I quite admit that for all labour drawn from any distance the Bill is admirably suited. To that, as explained by the Hon'ble Mr. Stokes, Act XIII cannot and does not apply, particularly when the labour is drawn into Native States; and it is really in regard to local labour, which Wynaad, Nilgiris and Mysore to some extent employ, that this Act falls short.

The Hon'ble P. Ratnasabhapati Pillai Avargal:—Your Excellency, I am reluctantly compelled to raise my voice against the lines on which this Bill has been framed. The provisions of the Assam Labour and Emigration Act VI of 1901 have been bodily imported into this Bill. The conditions in Assam regarding the supply of labour are totally different from those existing in Madras. The Government of India in their Resolution of the 31st January 1899 observe:

"Many of the circumstances which have made the Assam Immigration law "excessively elaborate and minute, and in its working costly to the tea industry, do

7

"not exist in Southern India. In Southern India labour is much nearer the planting "districts, is much more mobile and is by habit and experience much more self-reliant "and able to protect its own interests. It goes and returns at short intervals, and "long term labour contracts, such as are a necessity in Assam, are practically unknown "in Southern India and should not be countenanced by any law which may now be "enacted."

And yet in the face of the expression of this opinion of the Government of India, the Bill before the Council has been fully and completely modelled upon the lines of the Assam Act. The Government of Madras have apparently not been in favour of adopting the Assam law. The Government of Madras have been inclined to re-enact the Madras Act V of 1866. The Diwan of Mysore has expressed his opinion that the Assam Labour law is unsuitable to this presidency, and would prefer to amend Act XIII of 1859. In these circumstances, I confess my inability to understand the decision of Your Excellency's Government to legislate upon the model of the Assam law. No less than 29 out of 41 clauses of the Bill have been taken from the Assam Act. Conversion of the breach of a civil contract into a penal offence is against the spirit of all modern legislation. The Planters' Enquiry Committee admit this, and, unless there are very exceptional circumstances justifying legislation on the penal lines now proposed, it will be impolitic and very undesirable to carry the measure through. Are there any such exceptional circumstances now? Whatever might have been the state of affairs some ten years back, things are different now. Labour is now plentiful. Many native estates have gone out of cultivation, and expenses on other estates have been curtailed, with the result that coolies are very often refused admission. The question of advances has solved itself. There is keen competition in the labour market, and coolies are forthcoming without the former system of advances. In the presidency of Madras the communications are easier, and the labour markets and the planting estates are within moderate distances of each other. Has not the time come when the relations between the employer and the employed may be allowed to adjust themselves? It is exceedingly undesirable that the interference of Government should be invoked to make the strong party stronger still, and the position of the weak party rendered weaker. The planters are an influential body of persons, who are well able to protect their own interests. The penal provisions affecting the labourer contained in the Bill are extremely severe, unjust and in some cases very humiliating. I do not think, My Lord, that the worst forms of slavery can go further. I would refer in particular to clauses 20, 25, 26, 27, 29, 31, 32 and 38. The Bill provides in these clauses imprisonment, without specifying whether it is to be simple or rigorous. Under the General Clauses Act "imprisonment" means and includes imprisonment simple as well as rigorous. Imprisonment for breaches of civil contracts is unjust, even though it be simple. But it becomes positively inhuman, when it is made rigorous. Clause 20 deals with defaulting maistries, who can be sent to jail for three months with or without a fine of Rs. 500, and all this if he fails to present himself at his estate, or leaves the estate before the contract term, or fails to account for the money advanced to him for supplying labourers. Similar consequences avail a defaulting labourer under clauses 25, 26 and 27. But the worst is yet to follow. I refer to clause 29, which is bodily copied from section 202 of the Assam Act of last year. The provision I refer to is positively very hard and unjust. Under this clause, a planter, after he succeeds in prosecuting and sending his maistry or cooly to jail, is enabled to apply to the magistrate and ask that the maistry or the cooly incarcerated in the jail may be made over to him during the currency of the sentence of imprisonment. I suppose that the planter obtains possession of his maistry or cooly directly from the jail, to be put upon his estate to work. If this is not slavery of the worst type, such as prevailed in ancient times, I cannot conceive what else it can be. Maistries and coolies are after all human beings, but they are poor people forced to earn their bread by the sweat of their brow. And fancy their being bodily surrendered from the jail direct to their prosecutors, which means a judicial warning that the maistry and his cooly dare not act against the will of the planter. Can anything be more humiliating to these poor creatures, My Lord, who, in an unlucky moment, signed their contract? There can be no love lost between the planter and the maistry or the cooly in such circumstances, and I have no hesitation, My Lord, in declaring that such a provision can be nothing less than legalized slavery. I would therefore entreat you, My Lord, to consider whether these maistries and coolies

1-20 P.M.

are to be treated as so many inanimate chattels to be handled and used at the pleasure of the planters. If any relief by legislation is wanted by the planters, it should, I venture to think, take the shape of affording special facilities to them in recovering their advances. It may be declared penal for any maistry or labourer who may have received an advance from a planter to leave the jurisdiction of the magistrate, in which such planter's estate is situated, without satisfying that officer that the advances have been duly accounted for or refunded and without obtaining a pass.

The Hon'ble Mr. G. L. ACWORTH :—May I, with Your Excellency's permission, correct one statement of the Honourable Member if it is in my power to do so?

His Excellency the PRESIDENT :—Yes.

The Hon'ble Mr. G. L. ACWORTH :—The Honourable gentleman has stated that there is no competition for labour and that there is superabundance of labour. I beg most emphatically to contradict that statement; for if it gets abroad it may lead to misapprehension. There is just now, both in Ceylon and the extreme part of Southern India, more competition for labour than there has been during the last ten or fifteen years. Advances have gone up by leaps and bounds; where we used to advance ten or twelve or fifteen rupees, I have heard of thirty or forty or fifty or even sixty rupees per head being given.

The Hon'ble K. PERRAJU PANTULU Garu :—Confining myself to the general principles of the Bill, I wish to make the few observations that are possible for me to make considering the short time the Bill has been in my hands. Notwithstanding the remarks just made by the Hon'ble Mr. Acworth, I am constrained to submit to this Council that generally in this country labour supply is ample and the trouble is too much, rather than too little, available labour. The skilled labourers are few and the unskilled are many. The number of unskilled labourers that cannot find employment is swelling year by year. The lot of the Indian labourer is miserable. Wages are still low, though the cost of living has increased. The labour market is most inconveniently crowded. Planters employ largely unskilled labour and the present condition of labour market is excellent for them. All that is needed is to afford attractions for labourers to cheerfully serve them. If labourers are well-lodged and boarded, if they are not made to work daily for an unreasonable number of hours and seven days a week without a holiday, if they are offered wages higher than what they can obtain in agricultural pursuits, there will ever be many more applicants for service than there are vacancies. It is unnecessary to impose statutory penalties on the labourers so as to compel them by force to serve their terms of exile and work hard to the satisfaction of planters. The labourers are likely to suffer the most. They are a powerless class. They have no organizations to meet any improper treatment of their employers, or to refuse labour supply except on satisfactory conditions. There is nothing like union according to the western sense of the term. In their anxiety to obtain employment they generally sign any contract ignorant of its consequences. It is said that labourers are sometimes inveigled into contract of service by interested and unscrupulous persons to a scandalous extent, without the planter's knowledge. The guarantee of an admission before the magistrate is generally inadequate. Are not confessions made to the police and confirmed before the magistrate subsequently retracted and the confessors found innocent? It is very difficult, if not impossible, for the labourers to prove fraud or undue influence or any other plea that will entitle them to get rid of the contract. The scenes of their labour are generally inaccessible and are practically shut to those who might sympathize with them. They cannot have within easy reach the advice and aid of their relations, as they have to work in remote places far away from their villages and homes, and often in malarial localities. Police law and police aid will easily be available to the planters. The labourers cannot agitate and they are incapable of anything like organized action for the betterment of their condition. They generally do not know what the life is like when they enter it, and finding it too hard for them are not allowed to withdraw before the contract period expires. A good deal depends upon the personal kindness of the employers. Instead of holding out offers of wages higher than the labourers can get elsewhere and other advantages which will ensure any amount of labour, why should the planters solicit a penal enactment of the kind? Rather, protective laws for the labourers in plantations seem to be needed. As things now stand planters are the class that, least of all, needs the protection of a court of law. The supply enormously outruns the demand except in

tracts notoriously malarial. The system for which legislative sanction is sought to be obtained will tend to reduce the labourers to the level of slaves. Act I of 1858 (India) sanctions compulsory labour for the prevention of mischief by inundations owing to sudden breaches of the embankments of rivers, canals and tanks and of anicuts or other like works. In the case of railways and such other works of general benefit, magistrates were empowered to compel specific performance of the contract of work undertaken by the workmen (Act IX of 1860, India). The principle underlying these enactments is quite intelligible. Individual freedom has sometimes to be fettered for the public good. The present legislation is class legislation and is intended for the benefit of the few. Planting industries are no doubt to be welcomed as they enable a pretty large number of labourers to find employment, but there is no reason why they should not be conducted on such principles of contract as are applicable to ordinary transactions. Supposing the planter fails or takes into his head to close the industry, is the contract then specifically enforcible against him? Where is mutuality of contract, which is of the essence of the contract law of the land? Why should liberty of action be denied to the labouring community and the penalties which the ordinary law imposes regarded as insufficient in their case? The Bill is almost one-sided. It militates against the system of free labour and imposes harsh restrictions against the liberty of the poorer classes. It has not been established that the planters in Southern India cannot obtain sufficient labour through the natural flow of immigration. The existing law has not in any way materially prejudiced the tea nor coffee industries in Southern India. On the other hand it is shown by official statistics that both in area and production they are on the increase.

Year.	Madras districts.		Travancore and Cochin.	
	Area.	Production.	Area.	Production.
	Tea.			
	ACS.	LB.	ACS.	LB.
1890	5,733	1,032,004	5,179	808,094
1891	5,498	1,072,978	6,457	1,341,479
1892	5,694	1,116,240	7,375	2,036,325
1893	3,900	829,303	7,887	2,095,862
1894	6,102	1,427,424	9,079	2,397,254
1895	6,797	654,658	9,480	3,739,266
1896	5,270	642,374	11,444	5,181,561
1897	6,335	398,436	14,672	2,545,913
1898	6,512	352,234	19,701	2,810,314
1899	10,164	646,110	23,115	3,252,635
	Coffee.			
1890	73,762	7,568,020	5,610	757,862
1891	68,911	9,894,373	5,867	1,740,400
1892	68,237	8,843,925	5,712	1,119,086
1893	56,239	8,116,186	6,242	1,609,679
1894	63,812	10,977,687	6,587	858,796
1895	63,953	11,005,137	6,955	1,305,698
1896	56,851	11,528,343	5,564	333,732
1897	55,895	11,763,219	7,624	477,843
1898	63,971	4,807,126	6,384	1,120,134
1899	66,473	3,880,218	7,069	723,730

1-40 P.M.

It is now estimated that 310,000 acres are under coffee in Southern India, of which 80,000 acres are in the Madras districts, 74,000 in Coorg, 139,000 in Mysore and 18,000 in Travancore and Cochin. The wages paid by the planters are generally insufficient and low. The maximum wage is four annas a day for a male and two annas for a female, *i.e.*, about five pies to a male and two and a half pies to a female for every hour of work. And yet labourers are available to the planters, and if there is any falling off, it may be due to the fault of the employers. In the province of Assam, where planting industries are extensive, individual cases of oppression happened to be so many as to induce suspicion of the existence of general ill-treatment. It became such as to attract notice of the Chief Commissioner and there was much comment in the public press. At all events it cannot be said that the relations between the employers and employed are everywhere pleasant and patriarchal. It was said that where labour is scanty and has to be imported at great expense, as in the case of Assam, a system of penal labour in which breach of contract is punishable

by arrest and imprisonment is justifiable. In this presidency penal legislation is hardly justifiable, having regard to the observations recorded by the Government of India in its proceedings of 21st January 1899, No. 33617, in the department of Revenue and Agriculture (Emigration), viz., that in Southern India labour is much nearer the planting districts and goes and returns at short intervals, and that long-term labour contracts, such as are a necessity in Assam, are practically unknown in Southern India. It is on this principle that the system of penal labour in Chittagong was abolished. Experience has now clearly shown that one cannot expect labourers being everywhere treated with leniency and consideration, and the provisions introduced in this respect are inadequate and unworkable in practice. We have no less than the authority of the late Chief Commissioner of Assam that some planters in that part of the country were guilty of the evasions of the law and that magistrates were lenient to the planter and severe on the coolie. Under the free system of labour the planters' interests may here or there suffer, but that is no reason why penal enactment should be introduced into the Statute book of this presidency. On account of a few planters it is not safe or politic to jeopardize the liberty of the mass of the working men. Government should adopt an enlightened labour policy in Southern India. An endeavour should be made to reduce the hours of labour. I hope it will be found possible to secure, for every worker, one day of rest in seven without loss of his daily wage. In England the Workmen's Compensation Act was passed in 1897 and has been in operation since 1st July 1898. The agitation has been growing there that the principle of compensation should be extended to agricultural and other servants. The planting community ought to have as much solicitude for the healthy and vigorous existence of the labouring classes as any other. Better wages and shorter hours no doubt increase the pay-roll by a good sum every year, but this sum will be more than set off by the increased efficiency of the employés who serve with greater zeal and attachment. The planters do not offer the inducement of shorter hours of work and substantial increase in the wages of the labourer. It is now recognized that no man whose living is earned by hard physical labour can be worked profitably up to his full capacity for more than eight hours a day. Eight hours' work, eight hours' recreation, and eight hours' rest is what every friend of the labourer is now insisting upon. In America the wages average one shilling an hour and the working day is eight hours. In England wages run to six pence an hour for a day of ten hours. In this presidency the labourer considers it a lucky day if he can get three pence for all the working hours of the day. Making every allowance for the difference in the standard of living and comfort, no one need be surprised that on the pittance of such wage the life of an Indian working man is a life of squalid misery, suffering and disease for want of sufficient nourishment. There is any amount of competition among the labourers for employment. It behoves Government to take into account the minimum physical wants of the labourer and fix a minimum wage such as will enable him to live a life of reasonable comfort and ease and not a life of chronic misery and starvation. The minimum wage for a man or woman respectively must be determined by practical enquiry as to the cost of the food, clothing and shelter physiologically necessary to prevent bodily deterioration. It must be laid down that no planter should be allowed to hire any labourer below the minimum wage. The London *Daily News* has recently said:—

> "The question is, on what principle wages should be fixed when work is carried on under regular conditions. Our contention is that they ought to be fixed on the principle that a worker must receive at least as much as will provide him with reasonable comfort. In essentials this is the same as 'minimum wage,' for the minimum wage ought to be such as will keep a man alive, and not such only as feebly vitalises misery and squalor until they are forgotten in the work-house or in the grave. It might be shown that such a principle would be beneficial to industry, to capital, to the whole community, by making working-men more capable, more healthy, more contented, more loyal, and more genuinely, men."

In western countries, the foundation of national prosperity is always regarded as mainly depending upon the well-being and contentment of the labouring classes, and laws are being framed and enacted to enable them to earn wages such as will suffice for their proper nourishment and comfort, such as will make it possible for them to bring up a race of manly vigour.

Of late, there has been a revolution in labour policy, notably in America, owing to the discovery of the superior productivity of well-cared-for work-people. Although new sources of motive power are being discovered and employed, man has ever been proving to be "the finest, cunningest and most productive machine of all," and is not less responsive to improved care and thoughtfulness. This principle is fully recognized in the factory legislation of different countries. It is not only 'good morals' and 'good politics' but also 'good business.' It pays to treat labourers well. Those planters who contrive to feed and house labourers well, keep them clean and generally make them comfortable will have the satisfaction of seeing their output increased to an extent which no penal enactment can secure. In America the solid commercial advantages which accrue from taking the workmen into consideration and into confidence are everywhere acknowledged. In this respect the American capitalists are far ahead. A great writer recently remarked that what these hard-headed Yankees say and do in this respect the old-fashioned British employer would denounce as 'sentimentalism' and 'philanthropic humbug' were it not that these same Yankees, who make friends of their work-people and consult their comfort, are pushing him terribly hard in his own markets. The same writer has well said that the application of steam to machinery will scarcely have produced as great a social transformation as the application of humanity in a large and generous way to the worker.

His Excellency the PRESIDENT:—I am sorry to interrupt the Honourable Member. I do not gather that he is discussing the general principles of the Planters Labour Bill.

The Hon'ble K. PERRAJU PANTULU Garu:—My Lord, my point is that it is not necessary to introduce a Bill involving compulsory labour. It is not necessary to introduce a penal enactment in this presidency. On the other hand, the purpose will be amply fulfilled if wages are raised and if proper comforts are provided for.

His Excellency the PRESIDENT:—Very well. Will the Honourable Member proceed?

The Hon'ble K. PERRAJU PANTULU Garu:—There can be no doubt that if the planters of Southern India work their concerns on such lines their labourers will cheerfully work for them with all their vigour and they will never need a penal enactment to arrest the fugitive worker and compel him by his neck to toil for them. They may well take the example of Mr. George Cadbury of Bournville Works, the English capitalist who would not let his workmen work for more than eight hours a day, who has provided them with decent and spotlessly clean houses, gardens, and play-grounds, and schools for the education of their children and has been taking far more thoughtful care of his work-people than most fathers do of their own children. Such policy has been attended with the happiest economic as well as humane consequences. Surely no labourer runs away from Cadbury's cocoa plantations and he needs no magistrate to drive him back to his place of work under an Act of Government. If planters raise the wages of labourers and enable them to rise above their hard lot and do not endeavour to keep them in a state of subjection, they will not only enrich themselves but will also have the credit of converting the present cringing community of labourers into full-blown men and will be held up in grateful remembrance as benefactors of mankind. It is to be hoped that Government will find their way to drop the Bill.

My Lord, during the short time that I have been able to devote in looking into this Bill I found that there were certain general features in the scheme of the Act which appeared to be objectionable. In this Bill, the period of minority has been unnecessarily reduced and the principle adopted in this Bill is that the benefit of the legislation is given only to planters. There are large employers of labour in other fields of work, such as those that grow food-stuffs, cotton and other produce on hundreds, possibly thousands, of acres of land, clearing jungle, breaking land on hill sides and converting waste lands into fields of corn. Why should every planter who happens to own or manage a block of land of the extent of twenty acres be invested with the right of insisting upon the specific performance of his labour contract, simply because he undertakes to grow coffee, tea or cinchona, and at his instance law be set in motion to convert breaches of contracts, which are purely civil contracts, into crimes punishable with imprisonment, if the claims of such employers of labour in larger and more important fields of action be left to be dealt with by ordinary law? The general scheme of the Act is almost one-sided. The intermediate agency of the maistry is not got rid of, but well secured to the planter. I would in this connection bring to the notice of

Hon'ble Members what Mr. Wedderburn, the head assistant collector of the Nilgiris, said as regards the agency of these maistries. Mr. Wedderburn, who must be supposed to have thoroughly realised the situation and weighed his words, said that "The maistry was an unnecessary excrescence and an undesirable middleman." The planter works through the maistry, and the maistry is to account to the planter under the present Bill under heavy penalties. It is the maistry that sets the law in motion against runaway and refractory labourers and it is he that will be punished if there be found sufficient cause for the labourer's conduct. As in the story of giant and dwarf, the planter enjoys all the benefit of the victories and the losses fall upon the dwarf. The ordinary period of minority is reduced. That is not a well advised provision, having regard to the notorious ignorance and illiteracy of the labouring classes. In the case of transgression of law, the employer is liable only to fine. In the case of planter *versus* maistry, the latter must be punished with imprisonment for his breach of duty. If the maistry sets the law in motion against the labourer without sufficient cause, he will only be liable to a fine not exceeding fifty rupees. If any labourer neglects his work, he will not only forfeit his wages and have to pay to the planter a sum not exceeding four annas every day, but will also be liable to imprisonment and the magistrate will have no discretion in the matter. The planter may negotiate with the maistry or labourer during the term of imprisonment and the magistrate will have to hand him over to the planter if such request be made. These provisions appear to me, my Lord, almost one-sided. I would respectfully submit that under the circumstances the Bill should either be dropped or if it be thought that such a Bill as this is a legal necessity, Your Lordship may direct that the provisions of the Bill should be so moulded as not to injuriously affect the liberty of the working classes.

The Hon'ble Sir G. G. Arbuthnot:—Your Excellency, I am unable to follow very accurately the statistics given by the Hon'ble Member who has just spoken. I gather they are to the effect generally that the planting industry in Southern India is an eminently prosperous and progressive one. I can only assure him from a position of authority, and certainly from sad experience, that that is not by any means the case, and that unless every possible help is given to the planting industry, there is no doubt that there will soon be an end to coolies, pruners and diggers on estates. I came here with the intention of asking if, at this stage of the proceedings, it would not be possible to defer the consideration of the measure, in view of the fact that nothing could be done during the time that many of the members are away at Delhi, and until our next meeting, whenever that may be, even if you appointed a committee now. But I confess I became a convert after coming here. During the short time that the Bill has been before us, I have found it impossible, speaking for myself, even by expenditure on telegrams, to obtain expert opinion and advice in regard to certain points which I desired to have in order to enable me to speak with greater precision to-day. I do not profess to be a planting expert, although my interests and those of my firm in planting industry are very great. I feel if you do not now consider the Bill, which is eminently desirable in many ways although it may require certain emendations, we shall be running the risk of serious delay by hanging it up altogether for another season. I, therefore, withdraw the suggestion that I meant to put before the Council, and we can appoint a committee to which we can entrust the interests of the planters and the coolies and which will do justice to both.

The Hon'ble G. Srinivasa Rao Avargal:—If I rise to point out a few defects in the Bill, as it has been framed, let me, My Lord, not be put down as doing so from a desire to throw obstacles in the path of legislation or as doing it with any want of candour. My Lord, as was just now pointed out by Honourable Members and by the last speaker, the Bill was sent to me about a week ago and until I left Madura I had not the time to go through the provisions of the Bill. It is not my desire that the hands of the planter should not be strengthened. I am very much in favour of strengthening his hands, but, at the same time, I must see how best to strengthen them without prejudice to what the labourer has to undergo or suffer. The Hon'ble Mr. Acworth knows more about the work of planters than anybody. Looking into the report—a voluminous one—which we received, of the Planters' Enquiry Committee which sat in 1896, I find that there is no doubt that the planter is in certain respects in a disadvantageous position. Even the Hon'ble Mr. Acworth, knowing as he does so much about planters and how anxious the Government has been to better the condition of planters and labourers, could not now say whether section 3 of the Bill is

one which is necessary or which ought to be got rid of. If that is the apprehension which he entertains and which others have entertained, as shown by the telegram to the Council, reasonably, I am not in a position to discuss whether the existence of section 3 is necessary and whether, as it is worded, it will do good or positive harm. It is in that view that I rose to say that the time which was specified under the rules might be given and in the absence of urgency there was no occasion for us to hurry the Bill through. My Lord, there is a reproach that whenever a Bill is before the Council, it is hurried through and if I speak to-day it is because that I do not want the same thing to be said with reference to this Bill. A month's time—that is taking up the Bill in January next—will not make the labourers or planters suffer, nor will it add to their sufferings, if they have any, considering the long time during which their position has been under the consideration of Government. It is with that view and it is, as a matter of duty, I rise to say that our procedure should be such as nothing could be said against it, especially in the matter of Bills being passed by the Council. It is with a view to strengthen the hands of Government that I rose to say that the usual time allowed under the rules might be given and not with any desire to obstruct legislation. I was immensely taken aback when it was pointed out that the Indian members of Council had not communicated their desire to the Secretary to the Council previously and that they would have behaved with much greater candour, if they had done so. My Lord, I can only say that there was not the time to do it. First of all, I should know what the defects in the Bill are, so that I may see whether it is necessary to act under the provisions of rule 34 or not. I thought that when we mentioned it, it would at once be agreed to with great grace, that the time might be given, and the whole thing might be discussed on a future occasion. It is in that view our opposition to suspending the provisions of rule 34 should be construed and not in the harsh manner which we Indian members did not deserve. With the little knowledge that I was able to scrape up during the short time that I had, I find that, copying as we have been from the provisions of Act VI of 1901, it would be better to add to section 6 a provision like the one contained in section 9 of Act VI of 1901, namely, "Provided that no woman shall be capable of binding herself by a labour contract, if her husband or lawful guardian (if any) objects". A provision of that kind would perhaps be of immense use. I mention this now, for when the matter is taken into consideration by the Select Committee, these observations of mine might receive such consideration as they deserve at their hands. I also find that our penal provisions are very harsh and severe, not only so far as the labourer is concerned, but also the employer, inclusive of the maistry. Turning to section 16, you will find that in the case of frivolous or vexatious complaints, it is stated that the labourer shall forfeit to his employer a sum not exceeding double the amount of his wages. The section does not state how the amount shall be collected. I am not unmindful of the provision later on in the Bill which says that it shall be collected in a particular manner, but what I beg to point out is that very often a labourer may not have the means to pay down the fine. In the particular case referred to, it is not the fine that he has to pay but a double the amount of wages. What is to become of him in case he is not able to pay the amount? I think that a provision to the effect that if he has got the money he might pay it immediately, or he has not got it, he might work it off at the rate of one day's labour for each four annas of the amount, might be added to section 16. A provision like that will enable him to pay a sum equal to double the wages and will be immensely useful. Going to section 20 you will find that any maistry, for default of any one of the things mentioned in sub-clauses (*a*), (*b*) and (*c*), shall be punished with imprisonment which may extend to three months or with fine which may amount to Rs. 500. I have not the slightest doubt that the Select Committee, which will be appointed, will consider this provision to be very severe, and Honourable Members present here will also consider that the punishment provided is a very severe one. Even under Act VI of 1901 the punishment is only one month's imprisonment or a fine of fifty rupees. But in our section the fine is ten times fifty rupees and the period of imprisonment is three months. To my mind, it seems that the position of the planter and the maistry will be made an immensely bad one if you make the penal provisions so severe as we are attempting to do in the Bill now under consideration. Looking into sections 22, 23 and 24, you will find that the punishments are the same as those in Act VI of 1901. I consider that the fine of

Rs. 200 provided in sections 22 and 23 is severe, while the fine of Rs. 500, as provided in section 24, is very heavy. I do not know whether the Hon'ble Mr. Acworth, who knows the position and influence of planters, considers the fine too much or not, and it will be well for him to state what it is. But, so far as I am concerned, I am disposed to think that in the case of a planter who makes default in any one of the three ways mentioned in these three sections, the punishment proposed to be awarded in such cases is very great and ought to be reduced. In section 25 we find double punishments. The penal provision in this case is worse than what is to be found in section 193 of Act VI of 1901. We have added to that section "or neglects or refuses to work shall, on conviction by a magistrate, be liable to forfeit his wages for the days during which he has been absent or has neglected or refused to work and to pay to his employer a sum not exceeding four annas for each such day, and shall also be liable to imprisonment for a term not exceeding fourteen days."

My Lord, I need hardly say that this double punishment is altogether unnecessary and is worse than the provision contained in section 193 of Act VI of 1901, from which we have copied this section. Honourable Members will see that there is not the payment of four annas for every day of absence, and that for absence for more than seven consecutive days—I am only mentioning this to show to Honourable Members present that the provision is unnecessarily harsh—or for the absence of more than seven days in a month, the punishment is only fourteen days' imprisonment, and in case the absence extends to twenty days in any two consecutive months the period of imprisonment is one month. I do not, for one moment, mean to say that that punishment is lenient; but we are making it here doubly harsh, because we are not only making him pay to his employer a sum not exceeding four annas for each day, but also making him subject to imprisonment. When the matter is taken into consideration, I have not the slightest doubt that this provision will be regarded as something very harsh. Taking section 27, you will find that the punishment for desertion is imprisonment extending to one month, whereas in the case of section 25 it is only fourteen days' imprisonment. I beg to submit that it would be well for us to reduce one month to fourteen days in section 27 if you cannot go below that. In the case of fine under section 27, it is stated that it may extend to fifty rupees, whereas the fine under section 198 of Act VI of 1901 extends only to twenty rupees. Turning to section 31, we find it is therein inserted that "no conviction under this Act or imprisonment under such conviction shall operate as a release to any labourer from the terms of his labour contract." In my view it is better to give them the option of terminating the contract if they should like it. Then again section 34 is another section which is very severe. Under this section, a person enticing away or employing a labourer under labour contract is to be punished with fine which may extend to Rs. 200, or with imprisonment for a term which may extend to one month. That punishment seems to me rather severe. I have thus pointed out the manner in which the provisions of the Bill, if passed into law, will work hardship, not only on the labourer but also on the person who employs labour, whether he be maistry or employer himself. It may be the owner of an estate or the maistry that has got the labourer away. In either case the punishment is very severe, so severe that the employer, who probably welcomes the measure now, will find his position immensely worse than what it is now; and if that be so, he will regret that he ever gave his consent to such a Bill as the one now proposed to be introduced. I, therefore, request that the observations which I have been able to make from the short study I had of the Bill may receive consideration at the hands of the Council.

His Excellency the PRESIDENT:—It will suit the general convenience of the Council if we adjourn the debate till 3 o'clock.

2-10 P.M.

The Council re-assembled at 3 P.M.

The Hon'ble K. PERRAJU PANTULU Garu:—Your Lordship will permit me to say that the agenda paper for this meeting reached me only on Saturday last. I left Cocanada on Friday and reached Madras on Saturday and it was then this paper reached me.

3 P.M.

His Excellency the PRESIDENT:—But the Bill reached you long before that.

The Hon'ble K. Perraju Pantulu Garu:—Yes, but the procedure as regards the suspension of rules was not mentioned in the Bill. It was only mentioned in the agenda paper which reached my hands on Saturday night. I had no time to communicate with the Secretary to the Council or with Your Lordship.

His Excellency the President:—You knew the provisions of the Bill long before.

The Hon'ble K. Perraju Pantulu Garu:—Yes, but I did not know that a motion would be made to suspend the ordinary rules.

His Excellency the President:—That naturally follows from the announcement that the Bill would be introduced.

The Hon'ble K. Perraju Pantulu Garu:—I thought that no rule would be suspended in order to enable the Bill to be introduced.

His Excellency the President:—Does any other Honourable Member wish to speak on the Bill?

The Hon'ble Mr. G. L. Acworth:—I do not wish to speak to your Excellency, but I should like to correct a statement made by the Hon'ble K. Perraju Pantulu. In his speech he states that planters make their coolies work for seven days in the week. So far from that being the case, Sunday is always recognised as a holiday; and the difficulty of the planter is not to make the coolies work for six days but to make them work for at least five days. The coolies habitually and always take one day extra beyond Sunday as a holiday. If you have a gang of fifty coolies, ten will take a holiday on Monday, ten on Tuesday, ten on Wednesday, and so on, so that the statement that the planters make their coolies work for seven days in the week is absolutely false, and I cannot help thinking that the Honourable Member has spoken without the slightest knowledge of planters or of planters' estates, or of the condition of labourers employed on such estates.

The Hon'ble Mr. G. Stokes, in reply to the observations of Honourable Members, said:—Your Excellency, it now falls to me to explain, as far as possible, the points that have been mentioned. I think it would be expedient that I should do so in the order in which they have been raised by various speakers. The Hon'ble Mr. Acworth, in seconding the Bill, alluded to the difficulty in regard to short contracts for local labour, and he pointed out that under the Bill, as it is framed at present, there will be very great difficulty in dealing with such contracts. The Bill requires as one of the conditions that the contracts shall be in writing; and his proposal is that these short contracts should be allowed to be verbal contracts and that they should be limited, say, to one month. The case is certainly one not contemplated by the Bill, and I think it is a matter which will have to be considered in Select Committee as to how far the case of these contracts must be incorporated in the frame of the Bill. It seems to me to need careful and sympathetic consideration. The Hon'ble Mr. Ratnasabhapati Pillai remarked that the Bill was modelled on the Assam Act. That is perhaps because, as the Bill is printed, nearly every section is referred to the Assam Act But if he looked at Act VI of 1901, which relates to Assam, he would have seen that it consists of 223 sections, of which only 29 have been incorporated in this Bill. It would be quite impossible that this Bill could be modelled on the Assam Act, because the conditions in the two provinces are to a large extent different. Of course such provisions as relate to water-supply, sanitary arrangements, etc., are to a large extent common and have, therefore, been adopted from the Assam Act, as also some of the other provisions. It is, therefore, very far from describing the position accurately to say that this Bill is in any way modelled on the Assam Act. The Honourable Member also objected generally to penal legislation in such matters as this Bill deals with. Of course it must be admitted, and has been always admitted, that penal legislation for the enforcement of civil contracts is objectionable; but I do not think that the Honourable Member can have given sufficient consideration to the facts of the cases covered by this Bill. I think he is not very well aware of the conditions under which planting labour is employed or under which the planter works. I think he, as also the Hon'ble Mr. Perraju Pantulu, have fallen into an error from what I might call softness of heart. They desire to benefit the labourer and strongly express their sympathy with his hard luck, his depressed condition, and so on. But they should remember that the planting industry is not a charitable concern; it is a business concern and must be looked at not only from one side but from both sides.

This Bill endeavours to look at it from both sides—the side of the planter and the side of the labourer; and while it strengthens the position of the planter, where it is weak and where the labourer can take advantage of his position under the existing law, it also binds the planter, on the other side, by provisions which are vastly in favour of the labourer, compared with what he can hope to get under the existing law. The general objections to penal legislation in this matter have been met by the Planters' Enquiry Committee in paragraph 131 of their report. The report is in the hands of all Honourable Members and I will ask them to read the very fair, considerate and proper statement of the matter that they make. Their arguments mainly are:

"We venture to think that the exceptional circumstances entirely remove the "present case from the general category, and the security of property and prevention "of fraud are undoubtedly among the objects of all legislation. In the first place we "have to deal with a system of advances which we have shown to be necessary, and the "rights of property cannot be efficiently protected unless these advances are secured by "special enactment. There is, we apprehend, a great difference between the obligation "which rests on a person who has taken an advance of money as an earnest that he will "perform his contract, and that arising out of the mere engagement to serve. Finally, "the want of proper facilities for enforcing labour contracts has, as we have seen, "resulted in an extensive practice of fraud which is demoralising the class furnishing "the labour. When to all these considerations is added the fact that in no similar "case, so far as we are aware, in India, Ceylon or the Colonies, has it been found "possible to dispense with a penal labour law, we hold that there is ample justification "for the view that the Southern India planting industry needs such protection. We "are wholly unable to see why the planting industry in Southern India, where the "estates represent a capital of Rs. 19,65,19,281 and where 322,875 maistries and coolies "are annually employed at a cost of Rs. 1,87,82,632 in wages, should any longer be "made an exception."

I may point out that there is a Bill of this class in Ceylon on the one side and in Northern India on the other. While the principle of punishing breach of contract is enjoined in the existing law, I do not think that much weight need be attached to the general objection, which undoubtedly exists to penal legislation in this matter. The Hon'ble Mr. Ratnasabhapati Pillai also argued that the relations between planters and labourers should be left to adjust themselves. It is because in some instances the planter can take advantage of the labourer and in other instances the labourer can take advantage of the planter, that the position, as the Honourable Member must admit, needs amendment. I may also point out that the position of the labourer is not all that of entire helplessness which the Honourable Member would make out. In point of fact, perhaps he is helpless unless he resolves to resort to fraud, and he therefore practically resorts to it. That is the great objection to the present position that it is utterly demoralising to the labourer. He also objected to the Bill, in company with the other members—the Hon'ble Messrs. Perraju Pantulu and Srinivasa Rao—on the ground of its harshness. I am afraid that may be due to what is a blemish either in the matter of drafting or in the matter of printing. I am afraid it is in the matter of drafting. It is stated in several of these sections that the labourer "shall be punished" instead of "shall be punishable." These punishments are not punishments which must be inflicted without any alternative, but rather the maximum which can be inflicted for the most aggravated cases. You must remember that under the Penal Code very severe punishments are prescribed for offences, varying, we will say, from a day to two years. It is in the discretion of a magistrate to award whichever punishment he likes, according to the mitigating circumstances or aggravating circumstances of the cases. Most of these punishment sections follow the Assam Act, but in the case which the Hon'ble Mr. Ratnasabhapati Pillai took, namely that of the maistry, the punishment provided in this Bill is more severe than under the Assam Act. The reason of that is that the position of the maistry here is totally different from his position in Northern India. There the maistry is the agent of the planter, but here he is not. In North India he does not get the same advance as he gets here. The maistry in South India constantly gets advances running to Rs. 2,000 or 3,000. All he could get under the existing law, if he defrauds, is three months' imprisonment at the outset. It is very well worth his while to make away with Rs. 3,000, go to prison for three months, and return richer by Rs. 3,000. The planter cannot recover any money from him once he is

imprisoned. The only course left open to him is to recover the money from him by a civil suit. That is throwing good money after bad. The maistry seems to resort systematically to taking advances,

3-20 P.M.

undergoing punishment and pocketing the money. In such circumstances the punishment needs to be somewhat more severe in South India than it is in North India. In the Assam Act it is one month, but here it is three months and Rs. 500 fine. Even under these conditions, were it not for the provisions about specific performance, it would be worth the while of the maistry to go on as he does at present, namely, go to prison and pocket the money. The Hon'ble Mr. Perraju spoke of labour being superabundant and drew a picture of labour prostrate, the ignorance the cooly and so on. The Hon'ble Mr. Acworth has already denied the truth of that picture. I may say that it was certainly not in any way the experience of the Planters' Enquiry Committee; it is not that which even my slight acquaintance with planting districts shows to be the case. So far from that being the case, as I said in my introductory remarks the labourer is the master of the situation as things stand now. Whether he will be so or not in the future I cannot say. I hope he will not be so in future, as the provisions of the Bill will impose some restraint on him. The Hon'ble Mr. Perraju also quoted statistics to show that the planting industry was progressing. One could well wish that that was the case; but I am afraid that it is not at all as flourishing as the Honourable Member's figures will prove. He quoted those figures and assumed that they were correct. But I am afraid that they are not so, for this reason that they are figures founded upon returns given by planters voluntarily. They give them one year and do not give them another year; and the result has been that the statistics of the planting districts have always been hopelessly unreliable. It will be within the remembrance of some of the Members of Council that I introduced a Bill a short while ago connected with coffee-stealing and one of its provisions was that the Government should have power to call for these returns and the necessity of giving them was enforced by law. We may hope that the returns will be more reliable in future. The Honourable Member also stated that the wages of the planting coolies were low and insufficient and he pointed out that the wages of the labourer were four annas a day. A labourer in the plains gets only two annas a day, so that he gets double those wages if he is employed on a planting estate. He further pointed out that not only was it humane and so on to treat the labourer well, but it was good business. So far as my experience goes, no one understands the truth of that statement better than the planter. It has long been brought home to him by facts that if he does not treat his labourer well, he will not get any labour. The Honourable Member also referred to several minor points in connection of the Bill. He objected to section 6 and said that the period of minority was unnecessarily reduced. It is not quite fair to put it that way. All that it says is that when a person is sixteen years old he can enter into a labour contract. It seems to me hardly fair to say that the period of minority is thereby reduced. He also objected to the statement that the maistry could not be got rid of and he quoted the opinion of Mr. Wedderburn to support the proposition that the maistry was not necessary. I am afraid that the Honourable Member was led away by the name. Mr. Wedderburn was a young civilian of a few years' standing and not Sir William Wedderburn. I am afraid that his opinion is not of the slightest value.

The Hon'ble K. PERRAJU PANTULU Garu:—I beg your pardon, I was not led away by the name; I knew it was F. E. K. Wedderburn.

The Hon'ble Mr. G. STOKES.—He was a civilian of a few years' standing and the head assistant of the Nilgiris. He is now dead. The Hon'ble Mr. Srinivasa Rao took up a position which I think is a fair one with regard to this Bill. He said that he was in favour of strengthening the planters' hands, but not at the sacrifice of the interests of the cooly. As I have already said, the position of this Bill is not to strengthen the planter's hands or the labourer's hands but to ensure that one shall not take an unfair advantage over the other on either side—the planter shall not be able to take unfair advantage of the labourer or the labourer unfair advantage of the planter. That is the position which this Bill endeavours to establish, and I think it establishes it in a very fair way. I am extremely glad to hear the remark of the Hon'ble Mr. Acworth, a practical planter and the representative of the planters, that he regards this as a fair Bill on both sides. I must say that it is so, because the report of the Planters' Enquiry Committee is a most exhaustive one; it has brought

forward every point that could be brought forward on both sides, and as a result of the long discussion which this Bill has evoked, I do not know of any material point which could be granted on either side and which has not been embodied in this Bill. A most contentious matter was referred to by the Hon'ble Mr. Srinivasa Rao. He said that he could not see if clause 3 was good or bad and time is wanted to consider the matter. Clause 3 bars the application of Act XIII of 1859 in any locality to which the Bill is applied. Act XIII of 1859 is an extremely bad Act, as applied to planting labour. Under it, it is a fact that the labourer could be made a slave. The courts have tried for years to limit the operation of the Act. Under it contracts may be verbal, they need specify no time, and they can be made with reference to any conceivable object; and all that is necessary to bring a contract under its operation is that there should be an advance. An advance once made could be made to hang over the cooly for years; and the only hope about the Act is that if the cooly is punished once under it, he cannot be punished again. The result of that is that it deprives the planter of his advances and makes him lose what, as I have already said, is of far greater importance—the power to get the work done. This is what this Bill aims at and what must be aimed at in the case of planting industry, viz., to enable the planter to get the work done in proper time. On the other hand I may say that Act XIII of 1859 is quite useless for planters who work under a different set of circumstances and it is, therefore, necessary to have a Bill which will aid all, and which will enable planters not only in British India but also in the Native States such as Mysore—the planting industry in Mysore is a most important industry—to enforce their contracts and to check the growing evil of fraud on the part of coolies. The Hon'ble Mr. Srinivasa Rao objected to the extent of punishment provided by the clauses of this Bill. This is a matter which I think may be safely left to the consideration of the Select Committee. Whether a certain punishment is severe or in any way inappropriate will, no doubt, be very carefully considered by the Select Committee. I don't think, Sir, that I have omitted any point of importance which Honourable Members have mentioned. I think it is time now to ask Your Excellency to put the motion to the Council that the Bill be read in Council.

The Hon'ble Mr. Eardley Norton:—Will the Honourable Member in charge of the Bill say something to remove the misapprehension under which the Wynaad planters seem to labour? With reference to the telegram they sent to him, some assurance from the Honourable gentleman will go a long way to remove their apprehension.

The Hon'ble Mr. G. Stokes:—I thought that I had sufficiently indicated in my remarks that Act XIII of 1859 was an extremely objectionable enactment which could not be allowed to remain to satisfy anybody. I am afraid, therefore, that so far as I can see there is no hope that it can be allowed to go on. My own feeling is that even if this Bill were not passed, the Act in question is so objectionable from many points of view that it ought to be repealed by an independent enactment. Looking at Act XIII of 1859 from the view of the planting industry generally, it is a too powerful instrument in the hands of planters of one class, while it is quite useless to those of another, and I cannot hold out any hope that the provision of the Bill which repeals that Act will be given up or modified.

His Excellency the President, in bringing the debate to a close, said:—Honourable gentlemen, the Bill of which you are asked to sanction the introduction is a simple Bill, and its origin and necessity have been so fully explained by the papers which have been placed in the hands of Honourable Members and by the speeches of the Hon'ble Mr. Stokes that I should be needlessly taking up your time if I were to say more than a few words. I regret that three of the Honourable Members to whom we look for independent counsel and advice do not consider that I was justified in summoning the Council at somewhat short notice for the purpose of introducing the Bill. My reasons for doing so were these: firstly, because the proposed legislation has been under discussion more or less publicly for a period of some six years and I felt that it was high time to carry into effect that which was so generally approved; and secondly, because the Government will have to lay before the Council during the ensuing year several other legislative measures of great difficulty and complexity, and it seemed to me most desirable to get this uncontentious and simple measure out of the way before endeavouring to deal with other legislative arrears which have accumulated for a good many years past. I should have been glad if it had been possible for the Council to have met early in November and passed the Bill

10

through all its stages before now, but outstanding questions of detail made it impossible for us to obtain the sanction of the Secretary of State until the 2nd December, which only just allowed time for the prescribed notice to be given for a meeting of the Council before many Honourable Members will be obliged to start for Delhi. Ever since I have had the honour of presiding over this Council I have endeavoured to treat Honourable Members with complete candour and courtesy, and I have repeatedly invited them to show me similar candour and consideration. I was therefore no little pained and surprised when the Honourable Members opposite sprung upon me without warning their objection to the suspension of the rules. If those Honourable Members had given me such previous intimation of their objection as I think my invariable demeanour towards them gave me a right to expect, I should have been very glad to have made an endeavour to meet their wishes. A good time ago I was careful to intimate to Honourable Members and to the public generally through the medium of the press the nature of the work before the Council, the order in which it was intended to deal with it and the probability of the Council having to be summoned at short notice. My object in doing so was to meet the personal convenience of Honourable Members and to elicit any objections they might have to make. Therefore, while I regret that there was short notice, I am unable to regard the action taken by Honourable Members opposite as quite considerate or consonant with their position as the counsellors, not the political opponents, of Government.

The origin of the Planters Labour Bill has been fully explained and it has been drafted after protracted consultation with the Planters' Association, the district officers concerned, the Judges of the High Court, the law officers of Government, the Governments of Mysore and Coorg and the Government of India.

The object of the Bill is twofold: to ensure good and fair treatment to the labourer in sickness and in health, and to protect the employer from the serious losses to which he has hitherto been exposed through the dishonesty, extortion or caprice of the labourer. It has been amply demonstrated that the ordinary civil law is inadequate in the peculiar circumstances of the planting industry and that the importance of the planting industry is sufficient to justify special legislation. The province of Assam, where the planting industry is not more important than that of Southern India, has for many years past had its own special labour laws, and there are stronger reasons for similar legislation in Southern India in that the labour here is more migratory. The total labour force in the Assam plantations is not much greater than in those of Southern India, but whereas in Assam, at any rate, six years ago when the committee reported, the annual immigration only amounted to one-tenth of the numbers employed, in Southern India it amounted to no less than four-fifths. The speeches of the Honourable Members opposite have destroyed my hope that there would be an unanimous assent to the introduction of the Bill, but I trust that the further deliberations for which there will be ample opportunity will prove that the provisions, which have been drafted after so much consultation, fully and fairly carry out the objects of the proposed legislation.

The motion was put to the Council and agreed to.

The Secretary then read the title of the Bill.

The Hon'ble Mr. G. Stokes:—Your Excellency, it now becomes my duty to move that the Bill be referred to a Select Committee. Considering the importance of the measure, I cannot move that the Bill be not referred to a Select Committee. I do not think it is necessary to take up the time of the Council with any arguments in favour of this motion.

The Hon'ble Mr. J. N. Atkinson seconded the motion.

The motion was put to the Council and agreed to.

The Hon'ble Mr. G. Stokes:—The motion just put having been carried, it is necessary for the Council to appoint a committee of gentlemen to serve on the Select Committee. I propose the following names:—

The Hon'ble Mr. G. L. Acworth, who is the planting member in the Council; the Hon'ble Sir George Arbuthnot, who has also large interests in planting industry and knows a great deal about it; the Hon'ble Mr. G. Srinivasa Rao, who comes from the district of Madura from which a great deal of planting labour is drawn and who will have special opportunities of acquainting himself with the needs of labourers, if

he has not already done so; the Hon'ble Mr. J. N. Atkinson, who, as the member of the Board of Revenue, will represent the large agricultural interests which are involved in this measure; the Hon'ble the Advocate-General, who will be the member of the Select Committee ex officio; and myself, who, as the mover and member in charge of the Bill, must also be a member of the Select Committee. I, therefore, move that the Select Committee be formed with the gentlemen whom I have named.

The Hon'ble Mr. J. Thomson seconded the motion.

The motion was put to the Council and agreed to.

3-40 P.M. His Excellency the PRESIDENT then declared the meeting dissolved.

M. HAMMICK,
Secretary to Government.

MADRAS: PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

INDEX

TO THE

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR OF FORT ST. GEORGE

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS

FOR 1902.

[NOTE.—The subject-matter of questions asked in Council will be found alphabetically arranged under the heading "QUESTIONS ASKED IN COUNCIL."]

A

PAGE

ACTS ASSENTED TO BY HIS EXCELLENCY THE GOVERNOR—
- The Madras Court of Wards Act, 1902 .. 108
- The Madras Impartible Estates Act, 1902 .. 206

ACTS ASSENTED TO BY HIS EXCELLENCY THE GOVERNOR-GENERAL—
- The Madras Court of Wards Act, 1902 .. 163
- The Madras Impartible Estates Act, 1902 .. 206

ACWORTH, THE HON'BLE MR. G. L.—
- Takes his seat as an additional member of Council .. 99
- The Madras Court of Wards Bill, 1901 .. 30, 31, 51, 62, 89, 90
- The Madras Impartible Estates Bill, 1902 .. 183
- The Madras Planters Labour Bill, 1902 .. 207, 208, 210, 211, 213, 220

ADDITIONAL MEMBERS —
- Acworth, The Hon'ble Mr. G. L. .. 99
- Arbuthnot, The Hon'ble Sir G. G. .. 187
- Atkinson, The Hon'ble Mr. J. N. .. 1
- Bradley, The Hon'ble Mr. H. .. 187
- Forbes, The Hon'ble Mr. G. S. .. *ib.*
- Hammick, C.I.E., The Hon'ble Mr. M. .. 1, 153
- Mackenzie, The Hon'ble Mr. G. T. .. 153
- Miller, C.I.E., The Hon'ble the Rev. W. .. 99
- Moore, *Kt.*, C.I.E., The Hon'ble Lieutenant-Colonel Sir G. M. J. .. 187
- Nicholson, C.I.E., The Hon'ble Mr. F. A. .. 153
- Norton, The Hon'ble Mr. Eardley J. .. 1
- Saiyid Muhammad, The Hon'ble Nawab .. 1
- Smart, R.E., The Hon'ble Colonel A. W. .. 99
- Srinivasa Aiyar, Diwan Bahadur, The Hon'ble R. V. .. 187
- Stokes, The Hon'ble Mr. G. .. 99, 187
- Wallis, The Hon'ble Mr. J. E. P. .. 99

ADVOCATE-GENERAL: *See* WALLIS, THE HON'BLE MR. J. E. P.

ARBUTHNOT, THE HON'BLE SIR G. G.—
- Takes his seat as an additional member of Council .. 187
- The Madras Planters Labour Bill, 1902 .. 217

ATKINSON, THE HON'BLE MR. J. N.—
- Makes remarks, in connection with the financial statement, on village commons, on the formation of an agricultural department, on the indebtedness of ryots, on delta superintendents, on season-remissions and on famine-relief measures .. 124–126
- Takes his seat as an additional member of Council .. 1
- The Madras Planters Labour Bill, 1902 .. 224

B

BILLS—

THE MADRAS COURT OF WARDS BILL, 1901—
- Report of the Select Committee on the Bill presented .. 11–15
- Bill considered .. 15–87
- Motion to pass the Bill into Law .. 87–98
- Bill passed .. 98

B—*cont.*

BILLS—*cont.*

THE MADRAS IMPARTIBLE ESTATES BILL, 1902— PAGE
Bill introduced .. 164–173
Motion to suspend Council rules 34 and 46 .. 173
Motion to take the Bill into consideration .. *ib.*
Bill considered .. 174–185
Bill passed .. 186

THE MADRAS PLANTERS LABOUR BILL, 1902—
Motion to suspend Council rule 34 .. 207, 208
Bill introduced .. 208–224
Bill referred to a Select Committee .. 224, 225

BOBBILI, THE HON'BLE THE MAHARAJA OF—
The Madras Court of Wards Bill, 1901 .. 15, 27, 37, 38, 49, 50, 52, 53

BRADLEY, THE HON'BLE MR. H.—
Takes his seat as an additional member of Council .. 187
The Madras Court of Wards Bill, 1901 .. 41, 42, 61, 64, 66

C

CONDOLENCE: *See* EMPRESS FREDERICK.

COUNCIL OF THE GOVERNOR OF FORT ST. GEORGE FOR MAKING LAWS AND REGULATIONS—
Meetings of the Council .. 1, 55, 89, 153, 187
Meetings of the Council adjourned .. 53, 88

COUNCIL RULES—
Suspension of Council rule 34 .. 173, 207, 208
Suspension of Council rule 46 .. 173

E

EMPRESS FREDERICK—
Reply of the Secretary of State for India to the Council's resolution of condolence in regard to the demise of Her late Majesty the Empress Frederick .. 1

F

FINANCIAL STATEMENT—
Discussion on the statement .. 108–133
Memorandum accompanying the statement .. 134–151

FORBES, THE HON'BLE MR. G. S.—
Makes remarks, in connection with the financial statement, regarding the contribution by local boards towards the charges incurred in surveying inam villages .. 128, 129
Replies to questions asked in Council .. 2–5, 8–10, 101, 102, 104–107, 155–158, 161–163, 188–191, 193–196, 200, 202–206
Takes his seat as an additional member of Council .. 187
The Madras Court of Wards Bill, 1901 .. 27, 36, 41, 58–60, 65, 66, 78, 82, 86–88
The Madras Impartible Estates Bill, 1902 .. 167, 174, 183

FREDERICK: *See* EMPRESS FREDERICK.

H

HAMMICK, THE HON'BLE MR. M.—
Replies to questions asked in Council .. 2–9, 155, 157–160
Takes his seat as an additional member of Council .. 1, 153
The Madras Court of Wards Bill, 1901 .. 48
The Madras Impartible Estates Bill, 1902 .. 183–185

HIGGENS, THE HON'BLE MR. A. W. B.—
Makes remarks, in connection with the financial statement, on cattle-stands, on forest reserves, on fuel depots and on forest-limits .. 123, 124
The Madras Court of Wards Bill, 1901 .. 52, 64, 66

J

JAMBULINGAM MUDALIYAR, THE HON'BLE C.—
Asks questions in Council .. 159–161
Makes remarks, in connection with the financial statement, on the additional grant for education and public works, on season-remissions, on famine-relief measures, on forest-limits, on grazing fees, on the increase under Registration, on the equalisation of process fees, on the reorganization of the police, on the withdrawal of Government from Aluminium trade and on the contribution by local boards towards the charges incurred in surveying inam villages .. 118–122
The Madras Court of Wards Bill, 1901 .. 15–22, 32–34, 36–41, 43–46, 48–51, 56–58, 60–66, 69, 73, 79–88, 94, 95
The Madras Impartible Estates Bill, 1902 .. 173–185

M

PAGE

MACKENZIE, THE HON'BLE MR. G. T.—
Takes his seat as an additional member of Council 153
The Madras Impartible Estates Bill, 1902 .. .. 178, 183

MILLER, THE HON'BLE THE REV. W.—
Makes remarks, in connection with the financial statement, on the special grant for the Victoria hostel, on the erection of a hostel for the students in the northern part of Madras and on the appointment of an Inspector for European and training schools. 122, 123
Takes his seat as an additional member of Council 99

MOORE, THE HON'BLE LIEUT.-COL. SIR G. M. J.—
Takes his seat as an additional member of Council 187

N

NICHOLSON, THE HON'BLE MR. F. A.—
Takes his seat as an additional member of Council 153

NORTON, THE HON'BLE MR. EARDLEY J.—
Asks questions in Council 9, 10
Takes his seat as an additional member of Council 1
The Madras Court of Wards Bill, 1901 .. .. 22-25, 31, 37, 40, 42, 44, 53, 55, 56, 58, 66, 68-73, 81, 85, 90-93
The Madras Impartible Estates Bill, 1902 .. .. .. 171-173, 176-178, 180-185
The Madras Planters Labour Bill, 1902 223

P

PAPERS LAID ON THE TABLE—
Proceedings of the Board of Revenue (Land Revenue) regarding the transfer of the head-quarters of the Gódávari Collectorate from Cocanada to Rajahmundry (No. 240, dated 5th October 1901) 206
Proceedings of the Board of Revenue (Department of Settlement, Land Records and Agriculture) regarding crop experiments made on lands by revenue officers (No. 633, dated 23rd September 1897) .. .. *ib.*
Statement showing the nationality and other particulars of persons appointed as local fund engineers .. .. *ib.*
Summary of transactions in the Aluminium department of the School of Arts for the four years ending 31st March 1902 163

PEACE IN SOUTH AFRICA 153, 154

PERRAJU PANTULU, THE HON'BLE K.—
Asks questions in Council 4-9, 104-107, 187-196
Makes remarks, in connection with the financial statement, on the additional grants given by the Government of India, on village commons and cattle-stands, on manure and fuel depots, on State aid to agriculture, on State landlordism, on industrial development and on the water-distribution agency 112-115
The Madras Court of Wards Bill, 1901 .. .. 27-29, 45, 47, 52, 59, 65, 67, 68, 73, 81, 83, 86, 87, 93
The Madras Planters Labour Bill, 1902 .. .. 207, 213-217, 219, 220, 222

PETITIONS, ETC.—
The Madras Court of Wards Bill, 1901 .. .. 10, 11
The Madras Impartible Estates Bill, 1902 163
The Madras Planters Labour Bill, 1902 206

PRESIDENT, HIS EXCELLENCY THE—
Financial Statement 132, 133
Remarks on the conclusion of peace in South Africa 153, 154
The Madras Court of Wards Bill, 1901 .. .. .. 15, 20, 26, 34-39, 41, 44, 49, 50, 52, 53, 55-58, 62, 64, 65, 71, 74, 77, 79, 84, 87, 88, 98
The Madras Impartible Estates Bill, 1902 .. .. .. 163, 164, 172, 173, 176, 183, 184
The Madras Planters Labour Bill, 1902 .. .. 208, 213, 216, 219, 220, 223, 224

Q

QUESTIONS ASKED IN COUNCIL—
Abkári: See *Municipalities.*
Accommodation for Native non-official additional members at Ootacamund: See *Legislative Council.*
Accommodation for Travellers in Hill Stations: See *Choultries or Rest-houses in Hill Stations.*
Advances to Artizans: See *Industries.*
Advocate-General: Right of the Advocate-General to appear in original, appellate or revisional cases against the Crown 9
Agricultural Education: See *Education.*
Agricultural Farms: Establishment of experimental agricultural farms 6
Agricultural Gazette: Publication of a vernacular agricultural gazette for the dissemination of information among the ryots 190

Q—*cont.*

QUESTIONS ASKED IN COUNCIL—*cont.* PAGE

Agriculture—
Experimental culture of sisal hemp and sabai grass 6
Free cutting of babul (*Karuvai*) trees by ryots for agricultural implements 102
Recommendations of Sir Edward Buck in regard to instruction in agriculture 101
See *Cattle Farms and Shows* and *Land*.
Agricultural Indebtedness: See *Tenants involved in debt in permanently-settled estates, Land Transfers* and *Ryotwari Pattadars*.
Alienation of Land: See *Land*.
Aluminium Department: See *School of Arts*.
American Mission College, Vellore: Employment of a teacher convicted of a criminal offence in the college 203
Arni: See *Madras Impartible Estates Law*.
Arrears of Revenue: See *Revenue Recovery*.
Art Industries: See *Industries*.
Assessment—
Collection of land revenue in excess of the settled demand and the refund of such collections to the ryots 159
Calculation of the yield of a field in the Gódávari delta for the purpose of granting remissions 159, 160
Exemption from assessment of *Yerikkattalai* land in Tanjore 102
Method of assessing a survey number when only a portion of it is cultivated 159
Remission of assessment in the Trichinopoly district in regard to lands affected by floods .. 156
See *Settlement*.
Attachment of Property: See *Revenue Recovery*.

Babul (Karuvai) Trees: See *Agriculture*.
Bellary Municipality: See *Municipalities*.
Bench Courts: Investiture with second-class powers of bench courts exercising third-class powers 9
Board of Revenue Standing Orders: See *Proceedings of Government and the Board of Revenue*.
Buildings: See *Government Buildings*

Camorta, S.S: Particulars in regard to the loss of this ship 158, 204
Canara Settlement: See *Settlement in South Canara*.
Cattle Preservation: See *Famine*.
Cattle Diseases: Cattle mortality in the Gódávari district and the provision of suitable cattle stands in the deltaic villages 193
Cattle Farms and Shows: Establishment of cattle farms and shows 6
Cattle-stands and Cattle in the deltaic villages of the Gódávari district 105
Census charges: Contribution by municipalities towards these charges 107
Choultries or Rest-houses in Hill Stations: Establishment of choultries or rest-houses for travellers and visitors at Coonoor and Ootacamund 161
Civil Service: See *Provincial Civil Service*.
Coleroon River: Breaches in the banks of this river in the Trichinopoly district 156
Collector's Office: The method of filling up vacancies in the post of head writer in these offices 155
Commutation Rates: See *Settlement*.
Conduct of Public Servants: See *Police*.
Conservancy Works of Rivers and Tanks: See *Public Works*.
Cotton—
Deterioration of indigenous cotton in the presidency 106
Establishment of an experimental farm for the growth of American and Egyptian cotton in the largest cotton growing district .. .. *ib*
Court of Wards—
Cost of establishment in the estates of Kalahasti and Karvetnagar 203
Debts due by the estates of Kalahasti and Karvetnagar and their liquidation .. .. *ib.*
Disallowance of the claims made by menial servants and others in those estates for arrears of salaries due .. .. *ib.*
Instruction in agriculture to the wards 101
Introduction of new methods of agriculture in estates under the management of the Court of Wards .. .. *ib.*
Courts—
Abolition of one of the two sub-courts in Tinnevelly and the establishment of a sub-court at Tellicherry 154
Location at Tuticorin of the court of the additional subordinate judge of Tinnevelly .. 101
Criminal Procedure Code: See *Police*.
Crop Experiments: See *Settlement*.
Cuddapah—
Prevention by the District Magistrate of the celebration of Sriramanavami worship by the Brahmans of the town 156
See *Water-works of Cuddapah*.
Cultivation: Prevention of *podu* cultivation in the Agency tracts of the Northern Circars .. 5
Cultivation in South Canara: Exemption of certain improvements in cultivation from fresh taxation 202

Dacoities and Robberies in the district of Salem 158
Date-palm: See *Industries*.

Q—*cont.*

QUESTIONS ASKED IN COUNCIL—*cont.* PAGE

Dispensaries—
Establishment of veterinary dispensaries in the presidency 193
See *Hospitals and Dispensaries.*

District Munsifs: Acting promotions to district munsifs when leave to officers in the higher grades is granted or temporary sub-courts are established 107, 108
Divisional Charges: Equalisation of revenue divisional charges 8
Divisional Establishments: Equalisation of the establishments of divisional officers .. .. *ib.*

Education—
Dr. A. W. Thomson's report on technical education in Bombay 8
Establishment by local boards and municipalities of technical institutes on the model of the institution at Madura 103
Fall in the number and the strength of primary schools in 1900–1901 .. .. .. 4, 192
Improvement of the primary and secondary education in village schools 8
Introduction of agriculture as a compulsory subject in lower secondary and primary schools 101
Introduction of the subjects of drawing, clay-modelling and wood-work in important village schools 8
Provision in the budget for the imparting of veterinary instruction 194
Provision of veterinary colleges in other provinces 193
Training in Europe and America at Government expense of students of the Madras University in agricultural, industrial and other technical branches 108

Educational Institutions: See *American Mission College, Vellore.*
Emigration from the Gódávari and Vizagapatam districts to South Africa, Burma, Assam and Mauritius 5
See *Agriculture* and *Ships.*
Establishments: See *Divisional Establishments.*
Exhibitions: See *Industrial Exhibition at Cocanada.*

Famine—
Conditions in the Ceded districts and the starting of relief measures 104
Observations of the Madras Government on the recommendations of the Famine Commission in regard to the preservation of cattle 104, 105
Plantation of drought-resisting fodder plants in the Ceded districts and other places .. 105
Probable amount of land revenue remissions in the Ceded districts 104

Floods: Damages to rice fields in the Trichinopoly district from floods in the Coleroon river .. 156
Forest Courts: Establishment of these courts under the Madras Forest Act, 1882 157
Forest Land: Transfer, to the Revenue department for cultivation, of forest areas covered with thin scrub and grass 5

Gódávari Collectorate: See *Head-quarters.*
Gódávari and Kistna: See *Settlement, Settlement in Gódávari, Settlement in Gódávari and Kistna* and *Water-rate.*

Government Buildings—
Construction of a new building for the taluq cutcherry of Uttangarai taluq, Salem district. 203
The rule about the occupation by native officials of residences built for Europeans.. .. 154

Government Orders: See *Proceedings of Government and the Board of Revenue.*

Head-quarters: The placing on the table of the papers connected with the transfer of the head-quarters of the Gódávari Collectorate from Cocanada to Rajahmundry 161
Hindu Temples Desecration: See *Revenue Recovery.*
Hospital Assistants' Examination: Ineligibility of students failing at the first examination to appear for further examinations and the memorial from several ex-students on the subject 157, 162, 201
Hospitals and Dispensaries: Closure by the district board of Malabar of the dispensaries at Kuthuparamba, Quilandi and Tripprayar, and the conversion of the hospitals at Badagara and Nilambur into dispensaries 205

Impartible Estates Bill: See *Madras Impartible Estates Law.*
Inams: Enfranchisement of inams in permanently-settled estates 190
Indebtedness of Tenants: See *Tenants involved in debt in permanently-settled estates.*
Industrial Education: See *Education.*
Industrial Exhibition at Cocanada: Instructions to Collectors to take an active interest in the exhibition 158

Industries—
Establishment of schools of arts with sale-rooms and show-rooms in view to develop indigenous art industries 8
Establishment of depots at railway stations for exhibiting suitable articles and sale thereof on commission by the railway authorities 106
Experimental manufacture of sugar from the juice of the date palm 7
Introduction of a scheme for giving advances to the artizans to increase the manufacturing capacity of the presidency 8
Introduction into this presidency of the new tanning process called "chrome" 200
Introduction of the industry of enamelled ironware in this presidency and the establishment of an institution therefor 191
Introduction in English factories of a mechanical contrivance for the production of laced and embroidered cloths .. .. *ib.*

Q—*cont.*

QUESTIONS ASKED IN COUNCIL—*cont.* PAGE

Industries—cont.

Levy of an import duty in the United States of America on tanned skins 200

Mechanical improvement of the hand-looms in use among the weavers 8

Mica industry in the presidency 7

Periodical exhibitions of local manufactures in every collectorate 8

Publication in railway guides of the description and the prices of articles procurable in the vicinity of railway stations 106

Revival of the tanning industry in the presidency 200

The opening of a school in Salem for teaching the weavers the usefulness of the mechanical contrivance used in English factories 191

Use of fly-shuttle by the weavers in Bengal 8

Inspecting Schoolmasters : Reduction by the Malabar district board of the pay of inspecting schoolmasters and schoolmasters employed by it 205

Irrigation—

Improvements in irrigation in the district of Tanjore since the introduction of the new settlement 100

Payment of the nirgantis in the Gódávari district out of the village cess fund 160

Reservoirs or channels maintained by the Government in the district of South Canara .. 202

Ironware : Importation of enamelled ironware into Madras from Austria and Germany .. 191

Jaggery Industry : See *Industries.*

Kalahasti : See *Court of Wards.*

Karvetnagar : See *Court of Wards.*

Kistbandi : Reversion to the old system of eight or less number of instalments 101

Krishnaswami : See *Police.*

Land—

Alienation of tank-bed and village puntas in the Gódávari district and the desirability of issuing orders against such alienation in the districts 105

Allotment of culturable unoccupied land to landless labourers 5

The setting apart of *Yerikkattalai* land in Tanjore as reservoirs 102

See *Ryotwari Holdings.*

Land Revenue : See *Assessment* and *Revenue Recovery.*

Land Transfers : Amount of ryotwari land that passed into the possession of money-lending and other classes 4

Law College : Admission of students into the first B.L. class of the college 103

Legislation : See *Madras Tenancy Bill*, 1898, and *Madras Impartible Estates Law.*

Legislative Council : Accommodation at Ootacamund for native non-official additional members when summoned for meetings of the Council at that station 162

Leprosy : See *Municipalities.*

Liquor Shops : See *Municipalities.*

Local Fund Engineers—

Statement of particulars in regard to those appointed to the post of local fund engineer .. 157

Vacancies in the post of local fund engineer since January 1897 and the method of recruitment for the same 104

Madras Impartible Estates Law : The omission of Udaiyárpálaiyam from, and the addition of Arni to, the schedule to the Madras Impartible Estates Bill 206

Madras Steam Boilers Act, 1893 : Extension of the Act to the mufassal affecting private owners of steam engines 3

Madras Tenancy Bill, 1898 : Resumption of the Bill 106

Malabar District Board : See *Hospitals and Dispensaries* and *Inspecting Schoolmasters.*

Malabar Settlement : See *Settlement in Malabar.*

Mangapatnam Railway Disaster : See *Railways.*

Mica and Mica Industry in the Presidency 7

Municipalities—

Veto by Government of the election of Rao Bahadur Sabhapati Mudaliyar as chairman of the municipal council of Bellary 3

Location of liquor-shops within municipal limits by the revenue authorities in places objected to by municipal council 9

Prevalence of leprosy in the municipality of Srívilliputtúr 103

Murder Case : See *Police.*

Nirgantis in the Gódávari District : See *Irrigation.*

Panayavaram breach in the Trichinopoly district 156

Pasture for cattle : See *Famine.*

Podu Cultivation : See *Cultivation.*

Police—

Alleged murder of a schoolmaster by nine Pallas of Mannadimangalam village in the Madura district 203

Departmental orders issued by the Inspector-General of Police for a stricter working of the security sections of the Criminal Procedure Code 155

Dismissal of station-house officer Krishnaswami of Milavaram, Kistna district .. 200, 201

Formation of a special detective branch of the police 2

Remand in the Kalahasti sub-jail of a respectable person on a charge of petty theft and the conduct of the sub-magistrate and the police inspector in connection therewith .. 156

Q—*cont.*

QUESTIONS ASKED IN COUNCIL—*cont.* PAGE

Primary Education: See *Education*.
Primary Schools: See *Education*.
Proceedings of Government and the Board of Revenue: Publication, in the official gazettes, of draft orders affecting the landed interests of the ryotwari holders and inamdars 190
Provincial Civil Service.—Non-appointment of a member of the provincial civil service in the place of Mr. Manavadan Raja on leave 202
Public Servants: See *Police*.
Public Works: The carrying out of works connected with the conservancy of rivers and tanks by the villagers concerned instead of by professional contractors 102

Railways—
Assault on Rajah T. Rama Rao by a European passenger in the East Coast Railway .. 99
Improvement of the system of bridge-watching and line-patrolling on the railways under the control of this Government 199
Mangapatnam railway disaster—
Appointment of a committee of official and non-official gentlemen to enquire into the causes, etc., of the disaster 191, 196
Date of last inspection of the Mangapatnam bridge by the District Engineer and the report made by him 192, 197
Defect in the formation of the pier of the bridge 199
Nature and constitution of the committee who first enquired into the accident 196
Number of passengers in the train and number of the dead 192
Publication of a full report of the disaster 191
Refusal to permit the relations of travellers to proceed to Mangapatnam 192
Rules to regulate the system of patrol by the gang maistry and his men 198
The dispensing with of the services of bridge watchers 192, 197
Witnesses examined by the committee 197
Provision of ladies' carriage on trains running on the South Indian Railway 10
Regulations in force on the railways in the presidency regarding the rate of speed of trains on bridges 199
System of bridge-watching and line-patrolling on the South Indian Railway 200
Rama Rao, Rajah T.: See *Railways*.
Registration Deparment: See *Sub-Registrars of Assurances*.
Religious Disputes: See *Cuddapah*.
Remissions of Land Revenue: See *Revenue Recovery*.
Resettlement: See *Settlement*.
Rest-house: See *Choultries or Rest-houses in Hill Stations*.
Revenue Divisional Charges: See *Divisional Charges*.
Revenue Recovery—
Attachment of a big cauldron in Tirumathamkannu, Walavanad taluq, Malabar district .. 205
Attachment of certain puja vessels in the temple of Kolathur in Walavanad taluq, Malabar district .. .. *ib.*
Concessions in the collection of arrears of revenue to ryots in the Northern Circars owing to the staple produce falling below the normal quantity 4, 5
Demand and collection of Government revenue in Walavanad taluq, Malabar district, for fasli 1311 204
Desecration by a revenue inspector of the Hindu temples at Parangode and Srikrishnapuram in the Walavanad taluq, Malabar district, for attaching movable properties therein .. 205
Distraints of movables in the said taluq for the fasli 1311 204
Distraint of the copper drum in the temple of Kuruvampallam in Walavanad taluq, Malabar district, for arrears of kist 205
Employment of a large amount of coercion in the recovery of arrears of land revenue .. 107
Revenue Sales—
Amount of land sold for arrears of revenue in certain districts and the restoration of such lands to their former owners 194
Previous notice in the District Gazette of sales of land for arrears of land revenue .. 102
Ryotwari Holdings: Number of these holdings over five and up to ten acres 4
Ryotwari Pattadars: Indebtedness of these pattadars in the presidency .. .. .. *ib.*

Sabhapati Mudaliar, Rao Bahadur, A.: See *Municipalities*.
Salem: See *Dacoities and Robberies in the district of Salem*.
Sales of Land: See *Revenue Sales*.
Sanitary Science / *Sanitary Surveyors* } Training of passed medical and engineering students in sanitary science .. 9
School of Arts: Profit and loss account of the aluminium department of the School of Arts .. 10
Schools of Arts: See *Industries*.
Settlement—
Crop experiments made on lands by revenue officers and the resulting commutation rates .. 155
Extension of the time allowed by the special settlement officer in South Canara to prefer objections to the rough pattas 202
Government of India's views in regard to enhancement of assessment in land settlements. 107
Occupation of waste land in the Anantapur district 195

Q—*cont.*

QUESTIONS ASKED IN COUNCIL—*cont.* PAGE

Settlement—cont.

Revisions of settlements on a reclassification of soils or on the difference of prices 189

Significance of permanently-improved taram in the settlement scheme 188

The laying on the table of the letter from the Government of Madras to the Government of India regarding the permanent character of the ryotwari system 187

Settlement in Gódávari—

Crop experiments made for the reclassification of soils 188

Enhancement of assessment after reclassification of soils .. .. *ib.*

The place assigned for the permanently-improved taram in the Gódávari resettlement .. *ib.*

Settlement in Gódávari and Kistna—

Assurance as to making future re-settlements of ryotwari land of upland taluqs with reference to prices only 189

Increase in land revenue in the deltas of Gódávari and Kistna owing to enhancement of water-rate from Rs. 4 to Rs. 5 in the case of inam and zamindari lands 160

Particulars in regard to the increase in assessment in the case of ryotwari lands in certain parts of the Gódávari and Kistna districts with different water-rates .. .. .. *ib.*

The placing on the table of the final report on the introduction of the resettlement rates in the Gódávari and Kistna districts .. .. *ib.*

Settlement in Kistna—

Extent of land transferred from tank bed into ryotwari land 189

Assessment of such land as tank bed .. .. *ib.*

Settlement in Malabar—

Amount of existing assessments and the expected total increase 2

Appeals to the Board of Revenue by the landholders of Palghat, Walavanad, Kurumbranad and Calicut taluqs against the orders of the special settlement officer regarding assessments of lands for fasli 1311 204

Modification of the settlement agreeable to the views of the Government of India in respect of progressive and graduated imposition of large enhancements 107

Probable time for completing janmam registration and for introducing new rates 2

Taluqs in which janmam registration has been completed .. .. *ib.*

Taluqs in which new rates of settlement have been reduced .. .. *ib.*

Amount of the old and the new assessment in such taluqs .. .. *ib.*

Taluqs in which new rates have been introduced before the completion of janmam registration .. .. *ib.*

Settlement in South Canara—

Declaration of the finality of the present classification 195

Finality of the Dhoro settlement of 1819 .. .. *ib.*

Grounds for re-settling the wargs and making them liable to periodical revisions .. *ib.*

Levy of the reduced rates of assessment irrespective of appeals against the rates originally levied 196

Means employed to differentiate the yield due to natural productivity of soil and that due to ryot's industry and improvement .. .. *ib.*

Revision of assessment on the basis of the rental which the wargdars receive 195

Ships: Maintenance of lists of passengers by ship agents 204

Sriramanavami Worship: See *Cuddapah.*

Srivilliputtur Municipality: See *Municipalities.*

Staple Produce: Decrease in the crop outturns of the staple produce in the Northern Circars. 4, 5

Steam Boilers Act: See *Madras Steam Boilers Act*, 1893.

Sub-Assistant Inspectors of Schools: Inadequacy of the travelling allowance of these inspectors. 206

Sub-Registrars of Assurances: Investiture of sub-registrars with power to summon parties and witnesses 3

Taluq Cutcherry: See *Government Buildings.*

Tanjore: See *Irrigation.*

Tanning Industry: See *Industries.*

Technical Education: See *Education.*

Tenancy Bill: See *Madras Tenancy Bill*, 1898.

Tenants involved in debt in permanently-settled estates .. ..

Transfer of Head-quarters: See *Head-quarters.*

Travellers' Accommodation: See *Choultries or Rest-houses in Hill Stations.*

Travelling Allowance: See *Sub-Assistant Inspectors of Schools.*

Udaiyárpálaiyam: See *Madras Impartible Estates Law.*

Uttangarai: See *Government Buildings.*

Vellore: See *American Mission College, Vellore*, and *Water-works Scheme for Vellore Town.*

Verterinary Dispensaries: See *Dispensaries.*

Verterinary Education: See *Education.*

Village Cess Fund: See *Irrigation.*

Village Schools: See *Agriculture* and *Education.*

Waste Land in the Anantapur district: See *Settlement.*

Water Distribution: See *Irrigation.*

Water-rate: The placing on the table of the final orders of Government confirming the five-rupee water-rate on inam and zamin lands in the Gódávari and Kistna deltas 157

Q—*cont.*

QUESTIONS ASKED IN COUNCIL—*cont.* PAGE
Water-works of Cuddapah: Failure of these works and the feasibility of connecting them with the Peddagadi natural reservoir 161
Water-works scheme for Vellore town .. .. *ib.*
Weaving Industry: See *Industries.*
Works connected with the Conservancy of Rivers and Tanks: See *Public Works.*
Yerikkattalai Land in Tanjore: See *Land* and *Assessment.*

R

RATNASABHAPATI PILLAI, THE HON'BLE P.—
Asks questions in Council 1–3, 99–104, 156–158, 161, 162, 196–201
Makes remarks, in connection with the financial statement, on the increase of assessment in the Malabar settlement, on the provision for increased expenditure on Education, on the appointments of Inspector of European and training schools and deputy Director of Public Instruction, on the formation of a separate detective branch of the police, on the method of recruitment to the post of sub-magistrates and on the equalisation of the establishments of divisional officers 115, 116
The Madras Court of Wards Bill, 1901 .. .. 16, 26, 27, 37–39, 41–43, 45, 46, 48–50, 52, 53, 56, 58–62, 64, 66, 67, 69, 74–78, 84
The Madras Impartible Estates Bill, 1902 .. .. 167–170, 174–176, 180
The Madras Planters Labour Bill, 1902 .. .. 207, 211–213

S

SAIYID MUHAMMAD, THE HON'BLE—
Takes his seat as an additional member of Council 1
SMART, THE HON'BLE COLONEL A. W.—
Replies to questions asked in Council 100, 103, 106, 154, 156, 158
Takes his seat as an additional member of Council 99
SOUTH AFRICA: *See* PEACE IN SOUTH AFRICA.
SRINIVASARAGHAVA AIYANGAR, THE HON'BLE S.—
Makes remarks, in connection with the financial statement, on the enhancement of fees levied for searches in the records of the registration department 128
The Madras Court of Wards Bill, 1901 .. .. 43, 46, 47, 77, 78
SRINIVASA AIYAR, THE HON'BLE R. V.—
Takes his seat as an additional member of Council 187
SRINIVASA RAO, THE HON'BLE G.—
Asks questions in Council 4, 108, 154–156, 162, 202–206
Makes remarks, in connection with the financial statement, on the utilisation of the increased provision for education on salary grants, on the increase of the pay of sub-magistrates, on the separation of executive from judicial functions, on the increase of the pay or of the number of district munsifs, on the reduction in the fees charged by the registration department for encumbrance certificates and on the Provincial contract 116–118
The Madras Court of Wards Bill, 1901 .. .. 29, 37, 39, 41–44, 60, 73, 74, 77, 86, 93, 94
The Madras Impartible Estates Bill, 1902 .. .. 173, 176, 182, 183
The Madras Planters Labour Bill, 1902 .. .. 207, 217–219
STOKES, THE HON'BLE MR. G.—
Replies to questions asked in Council 100, 101, 103, 104, 107, 108, 192, 197–206
Takes his seat as an additional member of Council 99, 187
The Madras Impartible Estates Bill, 1902 186
The Madras Planters Labour Bill, 1902 .. .. 207–210, 220–225
STUART, THE HON'BLE MR. G. H.—
Makes remarks, in connection with the financial statement, on the increased expenditure under education, on the appointments of Inspector of European and training schools, and deputy Director of Public Instruction, on the increase of salary grants and on the special grant to the Victoria hostel 126–128

T

THOMSON, THE HON'BLE MR. J.—
Explains the financial statement 108–111
Replies to the remarks made on the statement 129–132
The Madras Court of Wards Bill, 1901 .. .. 40, 41, 42, 48, 49, 61, 64, 95–97
The Madras Impartible Estates Bill, 1902 .. .. 164–167, 173, 174, 176, 177, 180–186
The Madras Planters Labour Bill, 1902 .. .. 207, 225

PAGE

W

WALLIS, THE HON'BLE MR. J. E. P.—
Takes his seat as an additional member of Council 99
The Madras Court of Wards Bill, 1901 .. .. 29, 30, 42–44, 56–58, 62–66, 71, 78, 79, 82, 85, 86, 88

WINTERBOTHAM, THE HON'BLE MR. H. M.—
Makes remarks, in connection with the financial statement, on the facilities for breeding cattle in the deltas and on the increase of assessment in the Malabar Settlement 129
The Madras Court of Wards Bill, 1901 .. .. 11–14, 16, 17, 31–32, 39–43, 45, 47, 48, 50, 52, 53, 56–58, 60–62, 64, 68, 74, 81–84, 86, 87, 89, 97, 98

Y

YORKE, THE HON'BLE MR. A. J.—
Makes remarks, in connection with the financial statement, on the additional grants for education and public works, on salt and excise and on the Provincial contract .. 111, 112
The Madras Court of Wards Bill, 1901 .. .. 30, 53, 69, 70, 95
The Madras Impartible Estates Bill, 1902 .. .. 177, 178